

AN ORDINANCE concerning the construction of extensions and additions to the waterworks system owned and operated by said City of Fort Wayne, authorizing the issuance of revenue bonds to provide for the cost thereof, matters connected therewith, and repealing ordinances in conflict therewith.

WHEREAS, the City of Fort Wayne is the owner of and operates an unencumbered waterworks system furnishing the public water supply to said City and its inhabitants; and

WHEREAS, the Board of Public Works has determined and the Common Council of the City of Fort Wayne now finds that said waterworks is in need of certain extensions and additions consisting of main extensions, main refurbishments, main enlargements, reservoir improvements, laboratory and laboratory equipment, storage buildings and structure refurbishing, filter reconstruction, chemical handling equipment, elevated tank, primary and secondary plant equipment, rolling stock, and like equipment and equipment refurbishing, or conversion, electrical upgrade and railroad spur refurbishing, which are required in order to properly protect the health, well-being, and property of the City and its inhabitants; and

WHEREAS, the cost of said extensions and additions will be in an amount not to exceed Seven Million Five Hundred Thousand Dollars (\$7,500,000), including all incidental expenses necessary to be incurred in connection therewith and in connection with the issuance of bonds on account thereof; and

WHEREAS, the Common Council finds that funds required for said extensions and additions should be provided, subject to the jurisdiction of the Indiana Utility

1 Regulatory Commission, by the issuance and sale of revenue
2 bonds payable solely out of the earnings of the waterworks
3 after providing for the payment of operation and maintenance
4 expenses of said waterworks and not constituting a general
5 obligation of the City; and

6 WHEREAS, the City has outstanding certain
7 Waterworks Revenue Bonds of 1967 (the "1967 Bonds") in the
8 amount of One Million Five Hundred Five Thousand Dollars
9 (\$1,505,000) maturing annually over a period ending January
10 1, 2000, which bonds constitute a first charge upon a
11 portion of the gross revenues of the waterworks and are on a
12 parity with the hereinafter described 1968 Bonds and the
13 hereinafter described 1978 Bonds; and

14 WHEREAS, the City also has outstanding certain
15 Waterworks Revenue Bonds of 1968 (the "1968 Bonds") in the
16 amount of One Million Seven Hundred Five Thousand Dollars
17 (\$1,705,000) and maturing annually over a period ending
18 January 1, 2000, which bonds constitute a first charge upon
19 a portion of the gross revenues of the waterworks and are on
20 a parity with the 1967 Bonds and the hereinafter described
21 1978 Bonds; and

22 WHEREAS, the City also has outstanding certain
23 Waterworks Revenue Bonds of 1978 (the "1978 Bonds") in the
24 amount of Thirteen Million Two Hundred Five Thousand Dollars
25 (\$13,205,000) and maturing annually over a period ending
26 January 1, 2003, which bonds constitute a first charge upon
27 a portion of the gross revenues of the waterworks and are on
28 a parity with the 1967 Bonds and the 1968 Bonds; and

29 WHEREAS, the City also has outstanding certain
30 Junior Waterworks Refunding Bonds of 1982 (the "1982 Bonds")
31 in the amount of One Million Two Hundred Forty-Five Thousand
32 Dollars (\$1,245,000), maturing annually over a period ending
January 1, 2002, which bonds constitute a second charge upon
a portion of the gross revenues of the waterworks and are

1 junior to the 1967 Bonds, the 1968 Bonds, and the 1978
2 Bonds; and

3 WHEREAS, the City also has outstanding certain
4 Junior Waterworks Revenue Bonds of 1986 (the "1986 Bonds")
5 in the amount of Four Million Five Hundred Five Thousand
6 Dollars (\$4,505,000), maturing annually over a period ending
7 January 1, 2007, which bonds constitute a second charge upon
8 a portion of the gross revenues of the waterworks and are
9 junior to the 1967 Bonds, the 1968 Bonds and the 1978 Bonds,
10 and are on a parity with the 1982 Bonds; and

11 WHEREAS, the revenue bonds authorized under this
12 ordinance shall be junior and subordinate to the 1967 Bonds,
13 1968 Bonds and the 1978 Bonds and shall be on parity with
14 the 1982 Bonds and 1986 Bonds, which bonds shall constitute
15 a second charge upon earnings of said waterworks remaining
16 after providing for the payment of expenses of operation and
17 maintenance expenses of the waterworks; and

18 WHEREAS, the Common Council now finds that all
19 conditions precedent to the adoption of an ordinance
20 authorizing the issuance of the revenue bonds to provide the
21 necessary funds to be applied on the cost of providing said
22 extensions and additions have been complied with in
23 accordance with the provisions of the governing statutes.

24 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
25 COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

26 SECTION 1. That the City of Fort Wayne
27 (hereinafter sometimes referred to as the "City"), being the
28 owner of and engaged in operating an unencumbered waterworks
29 system supplying the City and its inhabitants with water,
30 now provides for certain needed extensions and additions to
31 such waterworks by the issuance of bonds payable from the
32 revenues and receipts of such waterworks pursuant to and in
the manner prescribed in I.C. 8-1.5 (the "Water Act") and
all acts amendatory thereof or supplemental thereto
(sometimes hereinafter collectively referred to as the

1 "Acts'); provided, however, that the revenue bonds
2 authorized by this Ordinance shall be junior and subordinate
3 in all respects to the 1967 Bonds, the 1968 Bonds, and the
4 1978 Bonds, and shall be on parity with the 1982 Bonds and
5 1986 Bonds, and none of the provisions of this Ordinance
6 shall be so construed as to affect the rights of the holders
7 of the 1967 Bonds, the 1968 Bonds, the 1978 Bonds, the 1982
8 Bonds, or the 1986 Bonds so long as such bonds are
9 considered outstanding under the ordinances so authorizing
10 such bonds. The terms "waterworks," "water system,"
11 "system," and "waterworks system," where used in this
12 Ordinance, shall be construed to mean and include the
13 existing waterworks system owned by the City of Fort Wayne
14 and all extensions, additions, and improvements thereto and
15 replacements thereof subsequently constructed or acquired.

16 SECTION 2. Said extensions and additions shall
17 include the construction and installation of main
18 extensions, main refurbishments, main enlargements,
19 reservoir improvements, laboratory and laboratory equipment,
20 storage buildings and structure refurbishing, filter
21 reconstruction, chemical handling equipment, elevated tank,
22 primary and secondary plant equipment, rolling stock, and
23 like equipment and equipment refurbishing or conversion,
24 electrical upgrade and railroad spur refurbishing, all of
25 which shall be constructed and installed in accordance with
26 the plans and specifications prepared by the City's
27 Engineer, which plans and specifications are made a part
28 hereof by reference and are hereby approved. The Board of
29 Public Works is hereby authorized to proceed with the
30 construction and installation of said extensions and
31 additions and to enter into all contracts necessary for such
32 purpose in conformity with the provisions of this Ordinance
and of said Act.

SECTION 3. The proper officers of the City are
hereby authorized to proceed with the issuance of the bonds

1 authorized hereunder in conformity with the provisions of
2 this Ordinance and of said Acts, subject, however, to the
3 approval of the Indiana Utility Regulatory Commission for
4 the issuance of the required amount of revenue bonds and as
5 to other matters. The proper officers of the City are
6 hereby authorized to file or cause to be filed a proper
7 petition or petitions with the Indiana Utility Regulatory
8 Commission for the purpose of obtaining the required
9 approval of said Commission. The principal of and interest
10 on the bonds issued hereunder shall be paid solely and
11 exclusively (a) while the 1967 Bonds, the 1968 Bonds, the
12 1978 Bonds, or the 1982 Bonds are outstanding, from twenty-
13 nine percent (29%) of the gross revenues of the Waterworks,
14 and (b) after the 1967 Bonds, the 1968 Bonds, the 1978
15 Bonds, and the 1982 Bonds are no longer outstanding, from
16 the earnings of said waterworks system remaining after
17 providing for the payment for operation and maintenance
18 expenses of said waterworks system (both (a) and (b)
19 above are sometimes collectively referred to as the "Net
20 Earnings") and shall not constitute a general obligation of
21 the City.

22 SECTION 4. Beginning as of the date of issuance
23 of the bonds herein authorized, the income and revenues of
24 the existing waterworks, together with the income and
25 revenues of all extensions, additions, improvements thereto
26 and replacements thereof made subsequently, shall continue
27 to set aside into said separate and special fund, and shall
28 be used and applied in the maintenance and operation
29 thereof, in establishing a depreciation account, and for
30 payment of the bonds and the interest thereon which are
31 payable from the revenues of the waterworks. From and after
32 the date on which the new schedule of water rates to be
adopted becomes effective, the proportion of the gross
revenues of said waterworks that shall be paid into the
several accounts of said special fund, as provided by the

Ordinances authorizing the 1967 Bonds, the 1968 Bonds, the 1978 Bonds and the 1982 Bonds, is hereby fixed and determined as follows:

(a) Operation and Maintenance of Account. Sixty-one percent (61%) of the gross revenues of said waterworks shall be paid into the "Operation and Maintenance Account," and shall be used to pay the necessary cost of the reasonable and proper operation and maintenance of the waterworks, including any taxes required to be paid. The sum so set aside for operation and maintenance shall be applied exclusively to that purpose until a surplus shall have been accumulated in the Operation and Maintenance Account which shall be equal to the cost of maintaining and operating the waterworks during the remainder of the calendar, operating or fiscal year then current and the cost of maintaining and operating the waterworks during the calendar, operating or fiscal year then next ensuing. Any excess over such surplus may be transferred by the Common Council to either the Depreciation Account or the Bond and Interest Redemption Account.

(b) Depreciation Account. Then percent (10%) of the gross revenues of said waterworks shall be paid into the "Depreciation Account," and shall be expended in making good depreciation in the waterworks, or in new construction, extensions or additions to the property or the waterworks. Any accumulations in such Depreciation Account not required for immediate use may be invested in direct obligations of the United State Government, and if so invested the income from the investment shall accrue to the Depreciation Account. Said account shall not be used for any purpose other than as herein provided.

(c) Bond and Interest Redemption Account. Twenty-nine percent (29%) of the gross revenues of the waterworks shall, as such revenues are received, be set apart and paid into a special account to be identified as the "Bond and Interest

1 Redemption Account." The funds in said account shall be
2 used in the following order:

3 (1) solely for the purpose of paying the interest
4 on, principal of and the reserves for the 1967 Bonds, the
5 1968 Bonds and the 1978 Bonds which, by their terms, are
6 payable from the revenues of the waterworks and any bonds
7 hereafter issued ranking on a parity therewith, to the
8 extent required for that purpose; and

9 (2) solely for the purpose of paying the interest
10 on, the principal of, and the reserves for, the 1982 Bonds
11 and the 1986 Bonds which, by their terms, are payable from
12 the gross revenues of the waterworks and the bonds issued
13 pursuant to the provisions of this Ordinance, which by their
14 terms, are payable from the revenues of the waterworks both
15 of which are junior and subordinate to the 1967 Bonds, the
16 1968 Bonds and the 1978 Bonds, and any bonds hereafter
17 issued ranking on a parity with bonds authorized herein, to
18 the extent required for that purpose.

19 If and when a surplus shall be created in said
20 Bond and Interest Redemption Account which shall be in
21 excess of the interest on the principal of the bonds, plus
22 ten percent (10%) of the principal and interest payable
23 during the then current calendar, operating or fiscal year,
24 together with the amount of interest on and principal of all
25 bonds which will become due and payable during the calendar,
26 operating or fiscal year then next ensuing, then the Common
27 Council may transfer any excess over such surplus to either
28 the Operating and Maintenance Account or to the Depreciation
29 Account. The Common Council may also direct that any such
30 excess over such surplus shall be used in the purchase of
31 outstanding bonds. No further payments need be made into
32 the Bond and Interest Redemption Account when the funds
therein equal or exceed the amount of the principal of the
bonds then outstanding and interest thereon to the maturity
date thereof. Funds necessary to pay the principal of and

1 interest on outstanding bonds shall be remitted promptly to
2 the paying agent bank or banks therefor on or prior to the
3 due dates for the payment of interest and principal. In the
4 event any of the bonds payable out of said Bond and Interest
5 Redemption Account shall be subject to redemption prior to
6 maturity, any such excess over such surplus may also be used
7 in the redemption of outstanding bonds at not more than the
8 redemption prices and in accordance with the redemption
9 provisions applicable thereto.

10 SECTION 5. Beginning as of the date on which the
11 1967 Bonds, the 1968 Bonds, the 1978 Bonds and the 1982
12 Bonds are no longer outstanding, and only at such time, the
13 gross revenues of the waterworks shall cease to be paid into
14 the several accounts as provided for in Section 4. herein
15 and shall be paid in accordance with this Section 5. Such
16 portion of the Operation and Maintenance Account and the
17 Depreciation Account existing pursuant to Section 4,
18 together with such portion of the earnings of the existing
19 waterworks and all extensions, additions, improvements
20 thereto, and replacements thereof made subsequently, as are
21 necessary to provide for the payment for operation and
22 maintenance expenses of the waterworks, shall, as such
23 accounts or earnings are received, be set apart and paid
24 into a special account to be identified as the "Operation
25 and Maintenance Account." The balance, if any, remaining in
26 the Operation and Maintenance Account and the Depreciation
27 Account established pursuant to Section 4. (to the extent
28 not transferred to the Operation and Maintenance Account
29 established in this Section 5.), together with the Net
30 Earnings of said waterworks shall be paid into the several
31 accounts as follows:

32 (a) Bond and Interest Redemption Account. At
least semi-annually, such portion of the Net Earnings of the
waterworks as are necessary to provide for the payment of
the interest on and principal of the revenue bonds and the

1 creation of reserves for such payments shall, as such Net
2 Earnings are received, be set apart and paid into a special
3 account to be identified as the "Bond and Interest
4 Redemption Account." The reserve for the payment of the
5 interest on and the principal of the revenue bonds shall be
6 equal to (1) the principal of all bonds which will become
7 due and payable, and (2) the interest on all bonds which
8 will accrue, during the one year period commencing on the
9 date of each payment into the several accounts. The funds
10 in said account shall be used solely for the purpose of
11 paying the interest on, the principal of, and the reserves
12 for, the 1986 Bonds and the bonds issued pursuant to the
13 provisions of this Ordinance which, by their terms, are
14 payable from the Net Earnings of the waterworks and any
15 bonds hereafter issued ranking on a parity with the bonds
16 authorized herein, to the extent required for that purpose.

17 The Common Council may also direct that any such excess
18 over such surplus shall be used in the purchase of
19 outstanding bonds. No further payments need to be made into
20 the Bond and Interest Redemption Account when the funds
21 therein equal or exceed the amount of the principal of the
22 bonds then outstanding and interest thereon to the maturity
23 date thereof. Funds necessary to pay the principal of and
24 interest on outstanding bonds shall be remitted promptly to
25 the paying agent bank or banks therefor on or prior to the
26 due dates for the payment of interest and principal. This
27 money shall not be used for any other purpose.

28 (b) Waterworks Tax Account. In the event that
29 all required payments into the Bond and Interest Redemption
30 Account have been met to date and there has been accumulated
31 as a reserve in said Bond and Interest Redemption Account an
32 amount equal to the respective sums required therein, then
any excess Net Earnings of the waterworks available shall be
placed in a Waterworks Tax Account (the "Waterworks Tax

Account") to the extent necessary to provide for the payment of assessed taxes or payments in lieu of taxes.

(c) Special Utility Account. In the event that all required payments into the Bond and Interest Redemption Account and the Waterworks Tax Account (and any required payments of interest and principal on general obligation bonds or the creation of reserves, therefore, which may be hereafter issued pursuant to the Water Act) have been met to date and there has been accumulated as a reserve in said Bond and Interest Redemption Account an amount equal to the respective sums required therein, then any excess Net Earnings of the waterworks available shall be placed in a Special Utility Account (the "Special Utility Account") to the extent necessary to provide for the payment of the extension, replacement in whole or in part, repair and operation and maintenance of the waterworks.

SECTION 6. All of the funds of said several accounts shall be deposited in lawful depositories of the City and shall be continuously held, secured, or invested, as provided by the laws of Indiana relating to the depositing, securing, holding, or investing of public funds. The funds in said Bond and Interest Redemption Account shall be kept in a separate bank account apart from all other bank accounts of the City. In no event shall any of the Net Earnings of said waterworks be transferred or used for any purpose not contemplated by this Ordinance.

The City covenants that it will not make any investment of moneys in said respective Accounts in any manner or take or fail to take any other action which would result in the bonds constituting arbitrage bonds within the meaning of Section 103 of the Internal Revenue Code of 1986 (the "Code") or the Treasury Regulations or any Revenue Rulings promulgated thereunder, or any applicable successor Section, Regulation, or Ruling, or as determined by any court of competent jurisdiction.

SECTION 7. For the purpose of procuring funds with which to pay the cost of said extensions and additions, and issuance expenses, the City of Fort Wayne shall issue its revenue bonds under and pursuant to the provisions of this Ordinance and said Acts, which bonds shall be payable only out of the special Bond and Interest Redemption Account herein provided for, subject to the prior servicing of the 1967 Bonds, the 1968 Bonds and the 1978 Bonds, in accordance with the respective terms thereof and shall be designated as "Junior Waterworks Revenue Bonds of 1990." Said Junior Waterworks Revenue Bonds of 1990 shall be in a principal amount not exceeding Seven Million Five Hundred Thousand Dollars (\$7,500,000), in the denominations of Five Thousand Dollars (\$5,000.00) each or integral multiples thereof, numbered consecutively from 1 upwards, dated as of the first day of the month in which said bonds are sold, and shall bear interest at a rate or rates not exceeding ten percent (10%) per annum, the exact rate or rates to be determined by bidding, which interest shall be payable semi-annually on January 1 and July 1 in each year, beginning on January 1, 1991. The Common Council hereby authorizes and directs the Mayor and the Controller of the City of Fort Wayne, Indiana, to select an institution or institutions to serve as paying agent under this Ordinance for the bonds (the "Paying Agent"), as registrar for the bonds for the registration, exchange and transfer of the bonds pursuant to this Ordinance (the "Registrar") and as authenticating agent for the bonds. Both principal of and premium, if any, on the bonds shall be payable at the offices of the Paying Agent or Registrar, in lawful money of the United States of America, and said bonds shall mature serially on January 1 in the years and amounts as follows:

| <u>YEAR</u> | <u>AMOUNT</u> | <u>YEAR</u> | <u>AMOUNT</u> | <u>YEAR</u> | <u>AMOUNT</u> |
|-------------|---------------|-------------|---------------|-------------|---------------|
| 1991 | \$215,000 | 1997 | \$265,000 | 2003 | \$410,000 |
| 1992 | 230,000 | 1998 | 285,000 | 2004 | 925,000 |
| 1993 | 245,000 | 1999 | 305,000 | 2005 | 925,000 |
| 1994 | 255,000 | 2000 | 330,000 | 2006 | 925,000 |
| 1995 | 275,000 | 2001 | 355,000 | 2007 | 925,000 |
| 1996 | 250,000 | 2002 | 380,000 | | |

Interest on the bonds shall be payable by check or draft of the Paying Agent, mailed to the registered owners thereof as their names appear on the Registrar's registration books as of the 15th day of the month next preceding any interest payment date. The bonds of this issue maturing on January 1, 1999, and thereafter, shall be redeemable at the option of the City, in whole or in part, in inverse chronological order of maturity and by lot within a maturity, on January 1, 1998, or any interest payment date thereafter, at face value, together with the following premiums (expressed in percentage of face value):

2% if redeemed on January 1, 1998, or thereafter on or before July 1, 2001;
 1% if redeemed on January 1, 2002, or thereafter on or before July 1, 2005;
 0% if redeemed on January 1, 2006, or thereafter prior to maturity;

plus, in each case, accrued interest to the date fixed for redemption. Notice of such redemption shall be published at least thirty (30) days prior to the date fixed for redemption at least one time in a newspaper or financial journal of general circulation published in the City of Indianapolis, Indiana, and a financial journal of general circulation published in the City of New York, New York, and a like notice shall be sent by mail to the holders of such bonds as are then registered. The notice shall specify the date and place of redemption and the serial numbers of the bonds called for redemption. Interest on the bonds so called for redemption shall cease on the date fixed in said notice, if funds are available at the place of redemption to redeem the bonds when presented.

SECTION 8. Said Bonds shall be executed in the name of the City of Fort Wayne by the manual or facsimile

signature of the Mayor, countersigned by the manual or facsimile signature of the City Controller, and shall be attested manually or by facsimile signature by the City Clerk, who shall cause to be affixed, imprinted, or impressed by any means, including facsimile, the seal of the City to each of said bonds. In case any officer whose signature appears on the bonds shall cease to be such officer before the delivery of such bonds, his signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. Said bonds may, where appropriate, bear the mutual or facsimile signatures of validly appointed Deputy Officials.

No bond shall be valid or obligatory for any purpose unless and until a certificate of authentication on such bonds substantially in the form herein set forth shall have been duly executed by the Registrar through its authorized representative. Such executed certificate shall be conclusive evidence that such bond has been authenticated pursuant to the terms hereof.

The bonds issued hereunder shall be fully registered bonds without coupons. The bonds may be transferred, without charge, except for any applicable tax, fee, or other governmental charge, only at the principal office of the Registrar upon surrender thereof, together with an assignment duly executed by the registered holder or his duly authorized attorney in such form as shall be satisfactory to the Registrar. Upon the transfer of any such bond and on request of the Registrar, the City shall cause to be executed in the name of the transferee, and the Registrar shall authenticate and deliver, at the option of the transferee, a new fully registered bond or bonds, of any authorized denomination or denominations, in an aggregate principal amount equal to the unmatured and unredeemed principal amount of such bond or bonds surrendered and

bearing interest at the same rate and maturing on the same date or dates. Neither the City nor the Registrar shall be required to make any such exchange or transfer of any bond (i) during the fifteen (15) days next preceding any date on which such bond may be selected for redemption from among any bonds to be redeemed, or (ii) after such bond has been selected for redemption for a period of thirty (30) days prior to the redemption date.

As to any bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of or on account of the principal of and redemption premium, if any, on any such bond and the interest on such bond shall be made only to or upon the order of the registered holder thereof or his duly authorized attorney in such form as shall be satisfactory to the Paying Agent and neither the City nor the Paying Agent shall be affected by any notice to the contrary, but such registration may be changed as hereinabove provided.

SECTION 9. The form and tenor of said bonds, the Registrar's certificate of authentication to be endorsed thereon, and the form of assignment to be endorsed thereon shall be substantially as follows, to-wit:

UNITED STATES OF AMERICA
CITY OF FORT WAYNE
JUNIOR WATERWORKS REVENUE BONDS OF 1990

State of Indiana

County of Allen

No. _____

| | | | |
|-------------|-----------------|----------------------|--------------|
| Interest | | Authentication | |
| <u>Rate</u> | <u>Maturity</u> | <u>Original Date</u> | <u>Date</u> |
| | | | <u>CUSIP</u> |

Registered Owner:
Principal Sum: \$

The City of Fort Wayne, a municipal corporation, duly organized and existing under the laws of the State of Indiana (hereinafter sometimes called the "City") hereby promises to pay the Registered Owner stated above, or registered assigns, solely out the special account

hereinafter referred to, the Principal Sum stated above on the Maturity Date stated above, and to pay interest thereon until payment of such Principal Sum, or provision therefor, shall have been made upon redemption or at maturity solely from such special account. This Bond shall bear interest from the interest payment date next preceding the date on which it is authenticated (such date of authentication being the "Authentication Date" stated above) unless (a) it is authenticated after the fifteenth day of the month next preceding the month of the next interest payment date and on or before such interest payment date in which event it shall bear interest from the Original Date. Such interest shall be payable to the Registered Owner or registered assigns appearing on the registration books maintained by the Registrar as of the close of business on the fifteenth day of the calendar month next preceding the applicable interest payment date at the Interest Rate per annum stated above, payable semiannually on January 1 and July 1 in each year commencing on January 1, 1991.

The principal of and redemption premium on this Bond are payable in lawful money of the United States of America at the principal office of _____ (the "Paying Agent" and Registrar"), in _____. The interest on this Bond is payable in lawful money of the United States of America by check or draft of the Paying Agent, mailed one business day prior to the interest payment date to the Registered Owner at his address as it appears on the registration books maintained by the Registrar.

This bond is one of an authorized issue of bonds of the City of Fort Wayne of like date, tenor and effect, except as to numbering, rates of interest and dates of maturity, in the aggregate total amount of Seven Million Five Hundred Thousand Dollars (\$7,500,000), issued for the purpose of providing funds for the construction of extensions and

1 additions to the waterworks system pursuant to an ordinance
2 passed by the Common Council of said City on
3 _____, 1989, entitled "An Ordinance
4 concerning the construction of extensions and additions of
5 the waterworks system owned and operated by the municipal
6 waterworks of the City of Fort Wayne, authorizing the
7 issuance of revenue bonds to provide for the cost thereof,
8 matters connected therewith, and repealing ordinances in
9 conflict therewith, " (the "Ordinance") and in strict
10 compliance with the provisions of the governing statutes,
11 particularly I.C. 8-1.5, and all Acts amendatory thereof or
12 supplemental thereto.

13 The principal of and interest on this bond and all
14 other bonds of said issue, together with any bonds hereafter
15 issued ranking on a parity therewith, and the principal of
16 and interest on certain outstanding Junior Waterworks
17 Refunding Revenue Bonds of 1982, now outstanding in the
18 principal amount of _____
19 Dollars (\$_____) and maturing on January 1, of
20 each year to and including January 1, 2002, and constituting
21 a second charge upon the revenues allocated to said Bond and
22 Interest Redemption Account and certain outstanding Junior
23 Waterworks Revenue Bonds of 1986, now outstanding in the
24 principal amount of _____
25 Dollars (\$_____) and maturing on January 1, of
26 each year to and including January 1, 2007, and also
27 constituting a second charge upon the revenues allocated to
28 said Bond and Interest Redemption Account which rank on a
29 parity with the Waterworks Refunding Revenue Bonds of 1982,
30 are equally and ratably secured by twenty-nine percent (29%)
31 of the gross income and revenues of said waterworks as the
32 same now exist or may hereafter be improved and extended,
which percentage of such income and revenues is to be
deposited in a special amount to be known as the "Bond and
Interest Redemption Account," which has heretofore been duly

created, all subject, however, to the prior payment in accordance with the terms thereof of the interest on and principal of certain Waterworks Revenue Bonds of 1967 now outstanding in the principal amount of _____ Dollars (\$_____) and maturing on January 1, of each year to and including January 1, 2000, and constituting a first charge upon the revenues allocated to said Bond and Interest Redemption Account, and further, subject to the prior payment in accordance with the terms thereof of the interest on and principal of certain now outstanding Waterworks Revenue Bonds of 1968, now outstanding in the principal amount of _____ Dollars (\$_____) and maturing on January 1, of each year to and including January 1, 2000, and also constituting a first charge upon the revenues allocated to said Bond and Interest Redemption Account which ranks on a parity with the Waterworks Revenue Bonds of 1967, and further, subject to the prior payment in accordance with the terms thereof of the interest on and principal of certain now outstanding Waterworks Revenue Bonds of 1978, now outstanding in the principal amount of _____ Dollars (\$_____) and maturing on January 1, of each year to and including January 1, 2003, and also constituting a first charge upon the revenues allocated to said Bond and Interest Redemption Account which ranks on a parity with the Waterworks Revenue Bonds of 1967 and the Waterworks Revenue Bonds of 1968. At such time as the Waterworks Revenue Bonds of 1967, the Waterworks Revenue Bonds of 1968, the Waterworks Revenue Bonds of 1978 and the Junior Waterworks Refunding Revenue Bonds of 1982 are no longer outstanding, the principal of and interest on the 1986 Bonds and the principal of and interest on this bond and all other bonds of said issue, together with any bonds hereafter issued ranking on a parity therewith, are equally and ratably secured by the earnings

of said waterworks system remaining after providing for the payment for operation and maintenance expenses of said waterworks as the same now exists or may hereafter be improved and extended which net earnings are to be deposited in a special account to be known as the "Bond and Interest Redemption Account" heretofore duly created. The City shall not be obligated to pay said bonds or the interest thereof, except from said special account, and neither this bond nor the issue of which it is a part shall in any respect constitute a corporate indebtedness of the City within the provisions and limitations of the Constitution of the State of Indiana.

REFERENCE IS MADE TO THE FURTHER PROVISIONS OF THIS BOND SET FORTH ON THE REVERSE HEREOF WHICH SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF DULY SET FORTH HEREIN.

(Reverse of Bond)

This Bond is transferable by the Registered Owner hereof in person or by his attorney duly authorized in writing at the principal office of the Registrar but only in the manner, subject to the limitations and upon payment of the charges provided in the Ordinance and upon surrender and cancellation of this Bond. Upon such transfer a new registered Bond or Bonds without coupons of the same maturity and in authorized denomination or denominations for the same aggregate principal amount will be issued to the transferee in exchange herefor.

The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and premium, if any, hereon and interest due hereon and for all other purposes and neither the City nor the Registrar shall be affected by any notice to the contrary. The Bonds are issuable as fully registered Bonds in denominations of \$5,000 or integral multiples thereof. The Bonds may not be registered to bearer. Subject to the limitations and upon payment of the charges provided in the

1 Ordinance, registered Bonds may be exchanged for a like
2 aggregate principal amount of registered Bonds of the same
3 maturity of authorized denominations.

4 The bonds of this issue maturing on January 1, 1999,
5 and thereafter, are redeemable at the option of the City, in
6 whole or in part, in inverse chronological order of maturity
7 and by lot within a maturity, on January 1, 1998, or any
8 interest payment date thereafter, at face value, together
9 with the following premiums:

10 2% if redeemed on January 1, 1998, or thereafter
11 on or before July 1, 2001
12 1% if redeemed on January 1, 2002, or thereafter
13 on or before July 1, 2005;
14 0% if redeemed on January 1, 2006, or thereafter
15 prior to maturity;

16 plus, in each case, accrued interest to the date fixed for
17 redemption; provided notice of such redemption shall be
18 given at least thirty (30) days prior to the date fixed
19 therefor by one publication in a newspaper or financial
20 journal of general circulation published in the City of
21 Indianapolis, Indiana, and a financial journal of general
22 circulation published in the City of New York, New York, and
23 a like notice be sent by mail to the holders of such bonds
24 as are then registered. Interest on the bonds so called for
25 redemption shall cease on the redemption date fixed in said
26 notice, if sufficient funds are available at the place of
27 redemption to redeem the bonds when presented in accordance
28 with the terms thereof. The bonds so redeemed prior to
29 maturity shall be surrendered for cancellation.

30 The City covenants that it will, to the fullest extent
31 permitted by law, fix, maintain, and collect an aggregate of
32 rates and charges for the services rendered by said
waterworks which will be sufficient to pay all costs of
operation and maintenance of said waterworks to create and
maintain a fund for the payment of all bonds which by their
terms are payable from the revenues and net earnings of the
waterworks, to create and maintain a fund for the payment of
assessed taxes or payments in lieu of taxes, and to create

1 and maintain a fund for the payment of the extension,
2 replacement in whole or part, repair, and operation and
3 maintenance of the waterworks and that it will in all other
4 respects faithfully comply with all of the provisions of the
5 governing statutes pursuant to which this bond is issued.
6 In the event the City shall make any default in the payment
7 of the principal of or interest on this bond, the holder
8 hereof shall have all of the rights and remedies provided by
9 the governing statutes, including the right to compel the
10 collection of sufficient rates and charges to provide for
11 the payment of this bond and the interest hereon. Provided,
12 however, nothing herein shall be construed as requiring the
13 expenditure of any funds of the City derived from any
14 sources other than the proceeds of the issue of which this
15 Bond is a part and the revenues and net earnings derived
16 from the operation of said waterworks system and this Bond
17 shall not in any respect constitute a general obligation of
18 the City in its corporate capacity.

19 (Front of Bond)

20 It is hereby certified and recited that all acts,
21 conditions and things required to be done precedent to and
22 in the execution, issuance, authentication, and delivery of
23 this bond have been done and performed in regular and due
24 form as provided by law. This bond shall not be valid
25 obligation until authenticated by the Registrar or its
26 successor in interest by execution of the Registrar's
27 certificate endorsed hereon.

28 IN WITNESS WHEREOF, the City of Fort Wayne, in Allen
29 County, State of Indiana, has caused this bond to be
30 executed in its corporate name by the manual or facsimile
31 signature of the duly elected, qualified, and acting Mayor,
32 countersigned by the manual or facsimile signature of its
duly appointed, qualified and acting City Controller, its
corporate seal to be hereunto affixed, imprinted, or

impressed by any means and attested manually or by facsimile
by its duly elected, qualified, and acting City Clerk.

CITY OF FORT WAYNE

BY: Paul Helmke, Mayor

ATTEST:

Countersigned:

Sandra E. Kennedy, City Clerk

Douglas M. Lehman,
City Controller

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the bonds described in the within
mentioned Ordinance.

as Registrar

BY: Authorized Representative

The following abbreviations, when used in the
inscription of the face of the within bond, shall be
construed as though they were written out in full according
to applicable laws or regulations.

| | |
|----------|--|
| TEN COM. | as tenants in common |
| TEN ENT. | as tenants by the entireties |
| JT TEN. | as joint tenants with right of survivorship and not as tenants in common |

UNIF GIFT MIN ACT. Custodian
(Cust) (Minor)

under Uniform Gifts to Minors Act

(State)

Additional abbreviations may also be used though not in list
above.

ASSIGNMENT

For value received, the undersigned hereby sells and
transfers unto _____.

PLEASE INSERT SOCIAL SECURITY OR
OTHER IDENTIFYING NUMBER OF TRANSFEREE

(Please Print or Typewrite Name and
Address of Transferee)

the within bond, and hereby authorizes the transfer of this bond on the registration books of the Registrar.

DATE: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a registered broker-dealer or a commercial bank or trust company.

Registered Owner
(BOND: The signature above must correspond with the name of the Registered Owner as it appears on the front of this bond in every particular without alteration or enlargement or any change whatsoever).

SECTION 10. The City Controller is hereby authorized and directed to have said bonds prepared, and the Mayor, City Controller and City Clerk are hereby authorized and directed to execute said bonds in the form and manner hereinbefore provided. The City Controller shall cause to be published a notice of sale twice, at least one week apart, with the first publication being at least fifteen days prior to the sale and the second publication being at least three days prior to the sale in accordance with I.C. 5-1-11 and I.C. 5-3-1. The notice shall be published in the News-Sentinel and in the Journal Gazette, the only newspapers of general circulation published in Fort Wayne and may be published one time in the Indianapolis Commercial published in the City of Indianapolis, Indiana. A summary notice may be published in the Bond Buyer published in the City of New York, New York. Said notice shall provide, among other things, that each bid shall be accompanied by a certified or cashier's check in the amount of Seventy Five Thousand Dollars (\$75,000) to guarantee performance on the part of the bidder, and that in the event the successful bidder shall fail or refuse to accept delivery of the bonds and pay for the same as soon as the bonds are ready for delivery, or at the time fixed in the notice of sale, then said check and the proceeds thereof shall be the property of the City and shall be considered as its liquidated damages on account of such default. The bond sale notice shall

1 state the time and place of sale, the total amount of bonds,
2 the maximum rate of interest thereon, the maturities
3 thereof, the purpose for which the bonds are being issued,
4 the terms and conditions on which bids will be received and
5 the sale made, and shall set out such other information as
6 the City Controller, acting on the advice of the City
7 Attorney and bond counsel, shall deem necessary and any
8 summary notice may contain any information deemed so
9 advisable.

10 All bids for said bonds shall be sealed and shall
11 be presented to the City Controller at his office. Bidders
12 shall be required to name the rate of interest which the
13 bonds are to bear, not exceeding the maximum rate
14 hereinbefore fixed. Such interest rate shall be in
15 multiples of one-eighth (1/8) or one-tenth (1/10) of one
16 percent (1%). The City Controller shall award the bonds to
17 the highest qualified bidder. The highest bidder shall be
18 the one who offers the lowest interest cost to the City, to
19 be determined by computing the total interest on all of the
20 bonds to their maturities and deducting therefrom the
21 premium bid, if any. No bid for less than the par value of
22 said bonds, including accrued interest to the date of
23 delivery, shall be considered. The City Controller shall
24 have the right to reject any and all bids, and in the event
25 no satisfactory bids are received, the City Controller shall
26 be authorized to continue the sale from day to day for a
27 period of thirty (30) days without readvertisement;
28 provided, however, that if said sale be continued no bid
29 shall be accepted which is lower than the highest bid
30 received at the time fixed for such sale in the bond sale
31 notice.

32 Prior to the delivery of said bonds to the purchaser
thereof, the City controller shall obtain a legal opinion as
to the validity of the bonds from Barnes & Thornburg, acting
as bond counsel for the City and shall furnish such opinion

1 to the purchaser of the bonds. The fee of such bond counsel
2 shall be considered as part of the cost of such issue and
3 shall be paid out of the proceeds of said bonds.

4 The Common Council authorizes the insurance of the
5 bonds with a municipal bond insurance company if the City
6 Controller, acting on the advice of the City's financial
7 consultant, finds such insurance advisable, in the best
8 interest of the City and necessary, convenient or desirable
9 to make the bonds issued hereunder more marketable.

10 The City covenants that it will not invest the proceeds
11 of said bonds, or any moneys treated as proceeds by the
12 Internal Revenue Service, in any manner, or take or fail to
13 take any other action, which would result in said bonds
14 constituting "arbitrage bonds" within the meaning of Section
15 103 of the Code, or the Treasury Regulations or any Revenue
16 Rulings promulgated thereunder, or any applicable successor
17 Section, Regulation, or Ruling, or as determined by any
18 court of competent jurisdiction.

19 SECTION 11. In the event it shall be hereafter
20 determined that it is not necessary to issue all of the
21 bonds authorized by this Ordinance, or the Indiana Utility
22 Regulatory Commission of Indiana shall not approve the
23 issuance of said total amount of bonds, the City Controller
24 shall be authorized to sell and deliver a lesser amount of
25 bonds than herein authorized, in which case the bonds not
26 sold or delivered shall be of the last maturity or
27 maturities.

28 The bonds herein authorized, when fully paid for and
29 delivered to the purchaser, shall be the binding and special
30 revenue obligations of the City, payable out of the Net
31 Earnings of the waterworks system of said City according to
32 their tenor and effect, and the proceeds derived from the
sale of the bonds shall be and are hereby set aside for the
purpose of paying the cost of construction and installation
of the aforesaid extensions and additions by said municipal

1 waterworks and the expenses necessarily incurred in
2 connection therewith, including the expenses incurred in
3 connection with the issuance and sale of the bonds. The
4 proper officers of the City are hereby directed to draw all
5 proper and necessary warrants, and to do all acts and things
6 which may be necessary to carry out the provisions of this
7 Ordinance.

8 SECTION 12. Any accrued interest and any premium
9 received at the time of the delivery of the bonds shall be
10 deposited in the Bond and Interest Redemption Account
11 heretofore duly created. The remaining proceeds from the
12 sale of the bonds shall be used immediately to pay the costs
13 of issuance incidental to the bond issue. All proceeds
14 remaining after the aforementioned deposit in the Bond and
15 Interest Redemption Account and payments with respect to the
16 incidental costs of issuance shall, upon receipt, be
17 deposited in a bank or banks which are legally designated
18 and qualified depositories for the funds of the City in a
19 special account or accounts to be designated as "City of
20 Fort Wayne, 1990, Waterworks Construction Account." The
21 funds in each of such special accounts shall be deposited,
22 secured, and held or invested, as provided by the laws of
23 the State of Indiana relating to the depositing, securing,
24 and holding or investing of public funds. The funds in such
25 special account or accounts shall be expended only for the
26 purpose of paying the cost of the extensions and additions
27 to said waterworks as herein authorized, the incidental
28 expenses incurred in connection therewith, including legal
29 fees, and for the payment of interest accruing on the bonds
30 during the period of construction, if required for that
31 purpose. Any balance or balances remaining unexpended in
32 the Construction Fund after the completion of the work which
are not required to meet unpaid obligations incurred in
connection with the construction of the work shall be

deposited in the Bond and Interest Redemption Account within sixty (60) days after completion of the project.

If required by bond counsel as a condition of its approving opinion to be delivered upon the original issuance and delivery of the bonds as to the exemption of interest on the bonds from Federal income taxation, there shall be established a Rebate Fund (the "Rebate Fund"). Notwithstanding anything in the Ordinance to the contrary, the City shall transfer to the Rebate Fund from the other accounts established under the Ordinance that amounts required to be transferred (when such amounts are so required to be transferred) in order to preserve the exemption of interest on the bonds from Federal income taxation under the Code. The City shall make payments from the Rebate Fund of amounts required to be deposited therein to the United States of America in the amounts and at the time required by the Code. The City covenants for the benefit of the holders of the bonds that, if the Rebate Fund is established, it will comply with the requirements of the code relating thereto. The City shall not be required to continue to comply with these requirements relating to the Rebate Fund in the event that the City obtains an opinion of nationally recognized bond counsel that (i) such compliance is no longer required in order to maintain the Federal income tax exemption of interest on the bonds or (ii) compliance with some other requirement will comply with the provisions of the Code in respect of arbitrage rebate. A supplemental ordinance may, but need not be, adopted to reflect the elimination or substitution of any such requirement. To the extent permitted by applicable statutes the City Controller is hereby authorized, with the advice of bond counsel retained by the City, to make, on behalf of the City, any elections authorized by the Code with respect to arbitrage rebate.

1 SECTION 13. The City shall keep proper books of
2 records and accounts, separate from all of its other records
3 and accounts, in which complete and correct entries shall be
4 made showing all earnings collected from said waterworks and
5 deposited in the special accounts heretofore established and
6 all disbursements made therefrom and all transactions
7 relating to said waterworks. There shall be prepared and
8 furnished to the original purchaser of the bonds, and, upon
9 written request, to any holder of the bonds, not more than
10 sixty (60) days after the close of each annual fiscal
11 period, complete operating and income statements and balance
12 sheets of the waterworks, in reasonable detail, covering
13 such annual fiscal period together with a statement of the
14 balances as of the close of such fiscal year in each of the
15 accounts hereinbefore referred to in this Ordinance, which
16 statements shall be prepared by an independent certified
17 public accountant. Said annual statements shall also
18 include a statement as to the number of customers of the
19 waterworks at the close of said fiscal year and the number
20 at the end of the preceding year, and comments of said
21 accountant relative to the manner in which the City has
22 carried out the requirements of this Ordinance and any other
23 ordinances authorizing then outstanding bonds. The fees or
24 charges of such accountant shall be deemed to be a cost of
25 operation and maintenance of the waterworks. Copies of all
26 such statements and reports shall at all times be kept on
27 file in the office of the City Controller. Any holder of
28 the bonds or representative of any holder duly authorized by
29 written instrument shall have the right at all reasonable
30 times to inspect the waterworks and the records, accounts
31 and data of the City relating thereto.

32 SECTION 14. The City shall, to the fullest extent
permitted by law, establish, maintain and collect reasonable
and just rates and charges for the services and facilities
afforded by said waterworks which will provide earnings at

1 least sufficient to pay the reasonable and proper cost of
2 the maintenance and operation of the waterworks, to pay the
3 principal of, the interest on and reserves for all bonds
4 payable from the revenues or Net Earnings of the waterworks
5 as the same become due and provide a surplus or margin of
6 ten percent (10%) of the principal and interest due each
7 year, which shall be cumulative, to pay assessed taxes or
8 payments in lieu of the taxes, and to pay for the extension,
9 replacement in whole or in part, repair, and operation and
10 maintenance of the waterworks as necessary. So long as any
11 of the bonds herein authorized are outstanding, none of the
12 facilities and services afforded by said waterworks shall be
13 furnished without a reasonable and just charge being made
14 therefor. The reasonable value of any facility or service
15 rendered to the City, or to any department, agency or
16 instrumentality thereof, including the use of water for
17 hydrants for fire protection or for any other purpose, shall
18 be charged against the City and shall be paid for as the
19 charges accrue, and the payments so received shall be deemed
20 to be earnings derived from the operation of the waterworks
21 and shall be used and accounted for in the same manner as
22 other earnings derived from the operation of the waterworks.

23 SECTION 15. If, prior to the maturity of the
24 bonds issued hereunder, (i) sufficient moneys, or (ii)
25 direct obligations of, or obligations the principal of and
26 interest on which are unconditionally guaranteed by, the
27 United States of America, the principal of and the interest
28 on which when due will provide sufficient moneys, or (iii)
29 time certificates of deposit fully secured as to both
30 principal and interest by obligations of the kind described
31 in (ii) above of a bank or banks the principal of and
32 interest on which when due will provide sufficient moneys,
shall be held in trust for such purpose, to pay the whole
amount of the principal and the interest due and payable at
maturity upon all of the bonds then outstanding; then and

1 in that case the bonds issued hereunder shall no longer be
2 deemed outstanding or entitled to the pledge of the Net
3 Earnings of the City's waterworks established herein.

4 SECTION 16. The City reserves the right to
5 authorize and issue additional bonds, payable out of the
6 revenues of the waterworks, of equal priority with the bonds
7 authorized by this Ordinance for the purpose of financing
8 the cost of future additions, extensions and improvements to
9 the waterworks, subject to the following conditions:

10 (a) The interest on and principal of all bonds payable
11 from the revenues of the waterworks shall have been paid to
12 date in accordance with the terms thereof, and all required
13 payments into the Bond and Interest Redemption Account have
14 been made in accordance with the provisions of this
15 Ordinance.

16 (b) In the event the 1967 Bonds, the 1968 Bonds, the
17 1978 Bonds, or the 1982 Bonds are outstanding at the time
18 such additional bonds are issued,

19 (i) The amount of gross revenues of the
20 waterworks allocated to and deposited in the Bond and
21 Interest Redemption Account in the calendar year immediately
22 preceding the issuance of any such additional parity bonds
23 shall be not less than one hundred twenty-five percent
24 (125%) of the maximum annual interest and principal
25 requirements of the then outstanding bonds and the
26 additional parity bonds proposed to be issued; or

27 (ii) Prior to the issuance of said parity bonds,
28 the proportion of the gross revenues allocated to said Bond
29 and Interest Redemption Account shall be increased
30 sufficiently so that said increased proportion applied to
31 the previous calendar year's gross revenues would have
32 produced revenues in said Bond and Interest Redemption
Account for said year equal to not less than one hundred
twenty-five percent (125%) of the maximum annual interest

1 and principal requirements of the then outstanding bonds and
2 the additional parity bonds proposed to be issued; or

3 (iii) Prior to the issuance of said parity bonds,
4 the water rates and charges shall be increased sufficiently
5 and the proportion of gross revenues allocated to said Bond
6 and Interest Redemption Account increased sufficiently so
7 that said increased water rates and charges applied to the
8 previous calendar year's operations would have produced
9 gross revenues in an amount so that the proportion allocated
10 to said Bond and Interest Redemption Account for said year
11 would have equaled not less than one hundred twenty-five
12 percent (125%) of the maximum annual interest and principal
13 requirements of the then outstanding bonds and the
14 additional parity bonds proposed to be issued.

15 (c) In the event the 1967 Bonds, the 1968 Bonds, the
16 1978 Bonds and the 1982 Bonds are not outstanding at the
17 time such additional bonds are issued, then either:

18 (i) The amount of Net Earnings of the waterworks
19 deposited in the Bond and Interest Redemption Account in the
20 calendar year immediately preceding the issuance of any such
21 additional parity bond shall be not less than one hundred
22 twenty percent (120%) of the maximum annual interest and
23 principal requirements of the then outstanding bonds and the
24 additional parity bonds proposed to be issued; or

25 (ii) Prior to the issuance of said parity bonds,
26 the water rates and charges shall be increased sufficiently
27 so that said increased water rates and charges when applied
28 to the previous calendar year's operations would have
29 produced Net Earnings in an amount not less than one hundred
30 twenty percent (120%) of the maximum annual interest and
31 principal requirements of the then outstanding bonds and the
32 additional parity bonds proposed to be issued.

For the purposes of this subsection (b) and (c) above,
the records of the waterworks shall be analyzed and all

1 showings shall be prepared by a certified accountant
2 employed by the City for that purpose.

3 (d) To the extent required by law, the issuance of the
4 proposed additional parity bonds and any necessary increase
5 in water rates and charges shall have been approved by the
6 Indiana Utility Regulatory Commission of Indiana, and said
7 Commission shall have certified that the Net Earnings of the
8 waterworks, after providing for operation and maintenance,
9 will be sufficient to pay the principal and interest of all
10 bonds payable from the Net Earnings of the waterworks,
11 including the additional parity bonds proposed to be issued.

12 (e) The principal on such additional parity bonds
13 shall be payable on January 1 in the years in which
14 principal is payable, and the interest on said bonds shall
15 be payable semi-annually on January 1 and July 1 in the
16 years in which said interest is payable.

17 SECTION 17. For the purpose of further
18 safeguarding the interests of the holders of the bonds, it
19 is specifically provided as follows:

20 (a) All construction contracts shall be let to
21 responsible contractors who shall be required to furnish
22 construction bonds in an amount equal to one hundred percent
23 (100%) of the amount of such contracts to insure the
24 completion of such contracts in accordance with their terms
25 and such contractor shall be required to carry such
26 employer's liability and public liability insurance as are
27 required under the laws of the State of Indiana in the case
28 of public contracts.

29 (b) The extensions and additions shall be contracted
30 for and constructed to the approval of the City's Engineer
31 or such other consulting engineers as may be hereafter
32 employed by the City. All estimates for work done and
material furnished shall first be checked by the City's
Engineer or such consulting engineers before being approved
by the City.

1 (c) The City shall, at all times, maintain said
2 waterworks in good condition and operate the same in an
3 efficient manner and at a reasonable cost.

4 (d) So long as any of the bonds herein authorized are
5 outstanding, the City shall maintain insurance on the
6 insurable parts of the waterworks of a kind and in an amount
7 such as is usually carried by private companies engaged in a
8 similar type of business. All insurance shall be place with
9 responsible insurance companies qualified to do business in
10 the State of Indiana, and any insurance proceeds collected
11 shall be used in replacing the property destroyed or
12 damaged. As an alternative to maintaining such insurance,
13 the City may maintain a self insurance program with
14 catastrophic or similar coverage so long as such program
15 meets the requirements of applicable laws and is maintained
16 in a manner consistent with programs maintained by similarly
17 situated municipalities.

18 (e) So long as any of the bonds herein authorized are
19 outstanding, the City shall not mortgage, pledge or
20 otherwise encumber its waterworks or any part thereof, and
21 shall not sell, lease or otherwise dispose of any portion
22 thereof except such equipment which may become worn out or
23 obsolete, and shall be replaced; nor, except as provided in
24 Section 16. hereof, shall the City execute or issue any
25 additional notes, bonds or other obligations pledging any
26 portion of the revenues of said waterworks unless the same
27 be made subordinate and junior in all respects to the bonds
28 herein authorized.

29 (f) The provisions of this Ordinance shall be
30 construed to create a trust in the proceeds derived from the
31 sale of the bonds herein authorized, for the uses and
32 purposes herein set forth, and so long as any of said bonds
are outstanding the provisions of this Ordinance shall also
be construed to create a trust in the revenues or Net
Earnings of the waterworks herein directed to be set apart

1 and paid into the bond and Interest Redemption Account for
2 the uses and purposes of said account as in this Ordinance
3 set forth.

4 (g) The provisions of this Ordinance shall constitute
5 a contract by and between the City of Fort Wayne and the
6 holders of the bonds herein authorized, all of the terms of
7 which shall be enforceable in law or in equity, and after
8 the issuance of the bonds this Ordinance shall not be
9 repealed or amended in any respect which will adversely
10 affect the rights and interests of the holders of said
11 bonds, nor shall the Common Council of the City adopt any
12 law, ordinance or resolution in any way adversely affecting
13 the rights of such holders so long as any of the bonds or
14 the interest thereon remain unpaid. The holders of the
15 bonds shall have all of the rights, remedies and privileges,
16 either expressly set forth in the provisions of I.C. 8-1.5
17 and all acts amendatory thereof and supplemental thereto, or
18 implied therein, including the right to compel the
19 collection of sufficient rates and charges to provide for
20 the payment of the bonds issued hereunder and the interest
21 thereon. Provided, however, none of the provisions of this
22 Ordinance shall be construed as requiring the expenditure of
23 any funds of the City derived from any sources other than
24 the proceeds of said bonds and the revenues or Net Earnings
25 derived from the operation of said waterworks system and
26 said bonds shall not in any respect constitute general
27 obligations of the City in its corporate capacity.

28 (h) The City covenants that it will not use the
29 proceeds of the bonds, or any earnings thereon, in any
30 manner, and will not take or fail to take any action, which
31 would adversely affect the exemption from Federal or State
32 income taxation of interest on any of the bonds under the
Code or applicable state laws.

SECTION 18. Subject to the terms and provisions
contained in this section, and not otherwise, the holders of

1 not less than sixty-six and two-thirds percent (66-2/3%) in
2 aggregate principal amount of the bonds issued pursuant to
3 this Ordinance and then outstanding shall have the right,
4 from time to time, anything contained in this Ordinance to
5 the contrary notwithstanding, to consent to and approve the
6 adoption by the City of such ordinance or ordinances
7 supplemental hereto as shall be deemed necessary or
8 desirable by the City for the purpose of modifying,
9 altering, amending, adding to or rescinding in any
10 particular any of the terms or provisions contained in this
11 Ordinance, or in any supplemental ordinance; provided,
12 however, that nothing herein contained shall permit or be
13 construed as permitting unless otherwise consented to by the
14 holders of all of the then outstanding bonds authorized by
15 this Ordinance:

16 (a) An extension of the maturity of the principal of
17 or interest of any bond issued pursuant to this Ordinance;
18 or

19 (b) A reduction in the principal amount of any bond or
20 the rate of interest thereon; or

21 (c) The creation of a lien upon or a pledge of the
22 revenues of the waterworks ranking prior to the pledge
23 thereof created by this Ordinance except as provided in
24 Section 16 hereof; or

25 (d) A preference or priority of any bond or bonds
26 issued pursuant to this Ordinance over any other bond or
27 bonds issued pursuant to the provisions of this Ordinance;
28 or

29 (e) A reduction in the aggregate principal amount of
30 the bonds required for consent to such supplemental
31 ordinance.

32 The holders of not less than sixty-six and two-thirds
percent (66-2/3%) in aggregate principal amount of the bonds
outstanding at the time of adoption of such supplemental
ordinance shall have consented to and approved the adoption


1 thereof by written instrument to be maintained on file in
2 the office of the Clerk of the City. No holder of any bond
3 issued pursuant to this Ordinance shall have any right to
4 object to the adoption of such supplemental ordinance or to
5 object to any of the terms and provisions contained therein
6 or the operation thereof, or in any manner to question the
7 propriety of the adoption thereof, or to enjoin or restrain
8 the City or its officers from adopting the same, or from
9 taking any action pursuant to the provisions thereof. Upon
10 the adoption of any supplemental ordinance pursuant to the
11 provisions of this section, this Ordinance shall be, and
12 shall be deemed, modified and amended in accordance
13 therewith, and the respective rights, duties and obligations
14 under this Ordinance of the City and all holders of bonds
15 issued pursuant to the provisions of this Ordinance then
16 outstanding, shall thereafter be determined exercised and
17 enforced in accordance with this Ordinance, subject in all
18 respects to such modifications and amendments.
19 Notwithstanding anything contained in the foregoing
20 provisions of this Ordinance, the rights and obligations of
21 the City and of the holders of the bonds authorized by this
22 Ordinance, and the terms and provisions of the bonds and
23 this Ordinance, or any supplemental ordinance, may be
24 modified or altered in any respect with the consent of the
25 City and the consent of the holders of all the bonds issued
26 pursuant to this Ordinance then outstanding.

27 SECTION 19. All ordinances and parts of
28 ordinances in conflict herewith are hereby repealed,
29 provided, however, that this Ordinance shall not be deemed
30 in any way to repeal, amend, alter or modify the ordinances
31 authorizing the issuance of the 1967 Bonds, the 1968 Bonds,
32 the 1978 Bonds, the 1982 Bonds or the 1986 Bonds, nor be
 construed as adversely affecting the rights of the holders
 of the aforementioned outstanding 1967 Bonds, 1968 bonds,
 1978 bonds, 1982 Bonds, or 1986 Bonds.

SECTION 20. That this Ordinance shall be in full force and effect from and after its passage, and any and all necessary approval by the Mayor.


Councilmember

APPROVED AS TO FORM
AND LEGALITY


J. Timothy McCaulay, City Attorney

Read the first time in full and on motion by Henry, seconded by Burns, and duly adopted, read the second time by title and referred to the Committee on City of Fort Wayne (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 11-28-89.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Henry, seconded by Burns, and duly adopted, placed on its passage. PASSED LOST by the following vote:

| | AYES | NAYS | ABSTAINED | ABSENT |
|-------------|----------|------|-----------|--------|
| TOTAL VOTES | <u>9</u> | | | |
| BRADBURY | <u>✓</u> | | | |
| BURNS | <u>✓</u> | | | |
| EDMONDS | <u>✓</u> | | | |
| GIAQUINTA | <u>✓</u> | | | |
| HENRY | <u>✓</u> | | | |
| LONG | <u>✓</u> | | | |
| REDD | <u>✓</u> | | | |
| SCHMIDT | <u>✓</u> | | | |
| TALARICO | <u>✓</u> | | | |

DATED: 12-12-89.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) _____ (APPROPRIATION) _____ (GENERAL) _____

(SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. S-207-89
on the 12th day of December, 1989.

Sandra E. Kennedy ATTEST
SANDRA E. KENNEDY, CITY CLERK

SEAL
Charles S. Reed
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th day of December, 1989, at the hour of 11:30 o'clock A. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 18th day of December, 1989, at the hour of 8:00 o'clock A. M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

DIGEST SHEET

S-89-11-34

TITLE OF ORDINANCE SPECIAL ORDINANCE

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

SYNOPSIS OF ORDINANCE AUTHORIZES THE ISSUANCE OF 7.5 MILLION DOLLARS IN
WATERWORKS REVENUE BONDS

EFFECT OF PASSAGE BONDS MAY BE ISSUED BY THE INDIANA UTILITY

REGULATORY COMMISSION

EFFECT OF NON-PASSAGE BONDS MAY NOT BE ISSUED

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) _____

AN ORDINANCE concerning the construction of extensions and additions to the waterworks system owner and operated by said City of Fort Wayne, authorizing the issuance of revenue bonds to provide for the cost thereof, matters connected therewith, and repealing ordinances in conflict therewith.

WHEREAS, the City of Fort Wayne is the owner of and operates an unencumbered waterworks system furnishing the public water supply to said City and its inhabitants; and

WHEREAS, the Board of Public Works has determined and the Common Council of the City of Fort Wayne now finds that said waterworks is in need of certain extensions and additions consisting of main extensions, main refurbishments, main enlargements, reservoir improvements, laboratory and laboratory equipment, storage buildings and structure refurbishing, filter reconstruction, chemical handling equipment, elevated tank, primary and secondary plant equipment, rolling stock, and like equipment and equipment refurbishing, or conversion, electrical upgrade and railroad spur refurbishing, which are required in order to properly protect the health, well-being, and property of the City and its inhabitants; and

WHEREAS, the cost of said extensions and additions will be in an amount not to exceed Seven Million Five Hundred Thousand Dollars (\$7,500,000), including all incidental expenses necessary to be incurred in connection therewith and in connection with the issuance of bonds on account thereof; and

WHEREAS, the Common Council finds that funds required for said extensions and additions should be provided, subject to the jurisdiction of the Indiana Utility

1 Regulatory Commission, by the issuance and sale of revenue
2 bonds payable solely out of the earnings of the waterworks
3 after providing for the payment of operation and maintenance
4 expenses of said waterworks and not constituting a general
5 obligation of the City; and

6 WHEREAS, the City has outstanding certain
7 Waterworks Revenue Bonds of 1967 (the "1967 Bonds") in the
8 amount of One Million Five Hundred Five Thousand Dollars
9 (\$1,505,000) maturing annually over a period ending January
10 1, 2000, which bonds constitute a first charge upon a
11 portion of the gross revenues of the waterworks and are on a
12 parity with the hereinafter described 1968 Bonds and the
13 hereinafter described 1978 Bonds; and

14 WHEREAS, the City also has outstanding certain
15 Waterworks Revenue Bonds of 1968 (the "1968 Bonds") in the
16 amount of One Million Seven Hundred Five Thousand Dollars
17 (\$1,705,000) and maturing annually over a period ending
18 January 1, 2000, which bonds constitute a first charge upon
19 a portion of the gross revenues of the waterworks and are on
20 a parity with the 1967 Bonds and the hereinafter described
21 1978 Bonds; and

22 WHEREAS, the City also has outstanding certain
23 Waterworks Revenue Bonds of 1978 (the "1978 Bonds") in the
24 amount of Thirteen Million Two Hundred Five Thousand Dollars
25 (\$13,205,000) and maturing annually over a period ending
26 January 1, 2003, which bonds constitute a first charge upon
27 a portion of the gross revenues of the waterworks and are on
28 a parity with the 1967 Bonds and the 1968 Bonds; and

29 WHEREAS, the City also has outstanding certain
30 Junior Waterworks Refunding Bonds of 1982 (the "1982 Bonds")
31 in the amount of One Million Two Hundred Forty-Five Thousand
32 Dollars (\$1,245,000), maturing annually over a period ending
January 1, 2002, which bonds constitute a second charge upon
a portion of the gross revenues of the waterworks and are

1 junior to the 1967 Bonds, the 1968 Bonds, and the 1978
2 Bonds; and

3 WHEREAS, the City also has outstanding certain
4 Junior Waterworks Revenue Bonds of 1986 (the "1986 Bonds")
5 in the amount of Four Million Five Hundred Five Thousand
6 Dollars (\$4,505,000), maturing annually over a period ending
7 January 1, 2007, which bonds constitute a second charge upon
8 a portion of the gross revenues of the waterworks and are
9 junior to the 1967 Bonds, the 1968 Bonds and the 1978 Bonds,
10 and are on a parity with the 1982 Bonds; and

11 WHEREAS, the revenue bonds authorized under this
12 ordinance shall be junior and subordinate to the 1967 Bonds,
13 1968 Bonds and the 1978 Bonds and shall be on parity with
14 the 1982 Bonds and 1986 Bonds, which bonds shall constitute
15 a second charge upon earnings of said waterworks remaining
16 after providing for the payment of expenses of operation and
17 maintenance expenses of the waterworks; and

18 WHEREAS, the Common Council now finds that all
19 conditions precedent to the adoption of an ordinance
20 authorizing the issuance of the revenue bonds to provide the
21 necessary funds to be applied on the cost of providing said
22 extensions and additions have been complied with in
23 accordance with the provisions of the governing statutes.

24 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
25 COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

26 SECTION 1. That the City of Fort Wayne
27 (hereinafter sometimes referred to as the "City"), being the
28 owner of and engaged in operating an unencumbered waterworks
29 system supplying the City and its inhabitants with water,
30 now provides for certain needed extensions and additions to
31 such waterworks by the issuance of bonds payable from the
32 revenues and receipts of such waterworks pursuant to and in
the manner prescribed in I.C. 8-1.5 (the "Water Act") and
all acts amendatory thereof or supplemental thereto
(sometimes hereinafter collectively referred to as the

"Acts'); provided, however, that the revenue bonds authorized by this Ordinance shall be junior and subordinate in all respects to the 1967 Bonds, the 1968 Bonds, and the 1978 Bonds, and shall be on parity with the 1982 Bonds and 1986 Bonds, and none of the provisions of this Ordinance shall be so construed as to affect the rights of the holders of the 1967 Bonds, the 1968 Bonds, the 1978 Bonds, the 1982 Bonds, or the 1986 Bonds so long as such bonds are considered outstanding under the ordinances so authorizing such bonds. The terms "waterworks," "water system," "system," and "waterworks system," where used in this Ordinance, shall be construed to mean and include the existing waterworks system owned by the City of Fort Wayne and all extensions, additions, and improvements thereto and replacements thereof subsequently constructed or acquired.

SECTION 2. Said extensions and additions shall include the construction and installation of main extensions, main refurbishments, main enlargements, reservoir improvements, laboratory and laboratory equipment, storage buildings and structure refurbishing, filter reconstruction, chemical handling equipment, elevated tank, primary and secondary plant equipment, rolling stock, and like equipment and equipment refurbishing or conversion, electrical upgrade and railroad spur refurbishing, all of which shall be constructed and installed in accordance with the plans and specifications prepared by the City's Engineer, which plans and specifications are made a part hereof by reference and are hereby approved. The Board of Public Works is hereby authorized to proceed with the construction and installation of said extensions and additions and to enter into all contracts necessary for such purpose in conformity with the provisions of this Ordinance and of said Act.

SECTION 3. The proper officers of the City are hereby authorized to proceed with the issuance of the bonds

authorized hereunder in conformity with the provisions of this Ordinance and of said Acts, subject, however, to the approval of the Indiana Utility Regulatory Commission for the issuance of the required amount of revenue bonds and as to other matters. The proper officers of the City are hereby authorized to file or cause to be filed a proper petition or petitions with the Indiana Utility Regulatory Commission for the purpose of obtaining the required approval of said Commission. The principal of and interest on the bonds issued hereunder shall be paid solely and exclusively (a) while the 1967 Bonds, the 1968 Bonds, the 1978 Bonds, or the 1982 Bonds are outstanding, from twenty-nine percent (29%) of the gross revenues of the Waterworks, and (b) after the 1967 Bonds, the 1968 Bonds, the 1978 Bonds, and the 1982 Bonds are no longer outstanding, from the earnings of said waterworks system remaining after providing for the payment for operation and maintenance expenses of said waterworks system (both (a) and (b) above are sometimes collectively referred to as the "Net Earnings") and shall not constitute a general obligation of the City.

SECTION 4. Beginning as of the date of issuance of the bonds herein authorized, the income and revenues of the existing waterworks, together with the income and revenues of all extensions, additions, improvements thereto and replacements thereof made subsequently, shall continue to set aside into said separate and special fund, and shall be used and applied in the maintenance and operation thereof, in establishing a depreciation account, and for payment of the bonds and the interest thereon which are payable from the revenues of the waterworks. From and after the date on which the new schedule of water rates to be adopted becomes effective, the proportion of the gross revenues of said waterworks that shall be paid into the several accounts of said special fund, as provided by the

Ordinances authorizing the 1967 Bonds, the 1968 Bonds, the 1978 Bonds and the 1982 Bonds, is hereby fixed and determined as follows:

(a) Operation and Maintenance of Account. Sixty-one percent (61%) of the gross revenues of said waterworks shall be paid into the "Operation and Maintenance Account," and shall be used to pay the necessary cost of the reasonable and proper operation and maintenance of the waterworks, including any taxes required to be paid. The sum so set aside for operation and maintenance shall be applied exclusively to that purpose until a surplus shall have been accumulated in the Operation and Maintenance Account which shall be equal to the cost of maintaining and operating the waterworks during the remainder of the calendar, operating for fiscal year then current and the cost of maintaining and operating the waterworks during the calendar, operating or fiscal year then next ensuing. Any excess over such surplus may be transferred by the Common Council to either the Depreciation Account or the Bond and Interest Redemption Account.

(b) Depreciation Account. Ten percent (10%) of the gross revenues of said waterworks shall be paid into the "Depreciation Account," and shall be expended in making good depreciation in the waterworks, or in new construction, extensions or addition to the property or the waterworks. Any accumulations in such Depreciation Account not required for immediate use may be invested in direct obligations of the United State Government, and if so invested the income from the investment shall accrue to the Depreciation Account. Said account shall not be used for any purpose other than as herein provided.

(c) Bond and Interest Redemption Account. Twenty-nine percent (29%) of the gross revenues of the waterworks shall, as such revenues are received, be set apart and paid into a special account to be identified as the "Bond and Interest

Redemption Account." The funds in said account shall be used in the following order:

(1) solely for the purpose of paying the interest on, principal of and the reserves for the 1967 Bonds, the 1968 Bonds and the 1978 Bonds which, by their terms, are payable from the revenues of the waterworks and any bonds hereafter issued ranking on a parity therewith, to the extent required for that purpose; and

(2) solely for the purpose of paying the interest on, the principal of, and the reserves for, the 1982 Bonds and the 1986 Bonds which, by their terms, are payable from the gross revenues of the waterworks and the bonds issued pursuant to the provisions of this Ordinance, which by their terms, are payable from the revenues of the waterworks both of which are junior and subordinate to the 1967 Bonds, the 1968 Bonds and the 1978 Bonds, and any bonds hereafter issued ranking on a parity with bonds authorized herein, to the extent required for that purpose.

If and when a surplus shall be created in said Bond and Interest Redemption Account which shall be in excess of the interest on the principal of the bonds, plus ten percent (10%) of the principal and interest payable during the then current calendar, operating or fiscal year, together with the amount of interest on and principal of all bonds which will become due and payable during the calendar, operating or fiscal year then next ensuing, then the Common Council may transfer any excess over such surplus to either the Operating and Maintenance Account or to the Depreciation Account. The Common Council may also direct that any such excess over such surplus shall be used in the purchase of outstanding bonds. No further payments need be made into the Bond and Interest Redemption Account when the funds therein equal or exceed the amount of the principal of the bonds then outstanding and interest thereon to the maturity date thereof. Funds necessary to pay the principal of and

1 interest on outstanding bonds shall be remitted promptly to
 2 the paying agent bank or banks therefor on or prior to the
 3 due dates for the payment of interest and principal. In the
 4 event any of the bonds payable out of said Bond and Interest
 5 Redemption Account shall be subject to redemption prior to
 6 maturity, any such excess over such surplus may also be sued
 7 in the redemption of outstanding bonds at not more than the
 8 redemption prices and in accordance with the redemption
 9 provisions applicable thereto.

10 SECTION 5. Beginning as of the date on which the
 11 1967 Bonds, the 1968 Bonds, the 1978 Bonds and the 1982
 12 Bonds are no longer outstanding, and only at such time, the
 13 gross revenues of the waterworks shall cease to be paid into
 14 the several accounts as provided for in Section 4. herein
 15 and shall be paid in accordance with this Section 5. Such
 16 portion of the Operation and Maintenance Account and the
 17 Depreciation Account existing pursuant to Section 4,
 18 together with such portion of the earnings of the existing
 19 waterworks and all extensions, additions, improvements
 20 thereto, and replacements thereof made subsequently, as are
 21 necessary to provide for the payment for operation and
 22 maintenance expenses of the waterworks, shall, as such
 23 accounts or earnings are received, be set apart and paid
 24 into a special account to be identified as the "Operation
 25 and Maintenance Account." The balance, if any, remaining in
 26 the Operation and Maintenance Account and the Depreciation
 27 Account established pursuant to Section 4. (to the extent
 28 not transferred to the Operation and Maintenance Account
 29 established in this Section 5.), together with the Net
 30 Earnings of said waterworks shall be paid into the several
 31 accounts as follows:

32 (a) Bond and Interest Redemption Account. At
 least semi-annually, such portion of the Net Earnings of the
 waterworks as are necessary to provide for the payment of
 the interest on and principal of the revenue bonds and the

creation of reserves for such payments shall, as such Net Earnings are received, be set apart and paid into a special account to be identified as the "Bond and Interest Redemption Account." The reserve for the payment of the interest on and the principal of the revenue bonds shall be equal to (1) the principal of all bonds which will become due and payable, and (2) the interest on all bonds which will accrue, during the one year period commencing on the date of each payment into the several accounts. The funds in said account shall be used solely for the purpose of paying the interest on, the principal of, and the reserves for, the 1986 Bonds and the bonds issued pursuant to the provisions of this Ordinance which, by their terms, are payable from the Net Earnings of the waterworks and any bonds hereafter issued ranking on a parity with the bonds authorized herein, to the extent required for that purpose.

The Common Council may also direct that any such excess over such surplus shall be used in the purchase of outstanding bonds. No further payments need to be made into the Bond and Interest Redemption Account when the funds therein equal or exceed the amount of the principal of the bonds then outstanding and interest thereon to the maturity date thereof. Funds necessary to pay the principal of and interest on outstanding bonds shall be remitted promptly to the paying agent bank or banks therefor on or prior to the due dates for the payment of interest and principal. This money shall not be used for any other purpose.

(b) Waterworks Tax Account. In the event that all required payments into the Bond and Interest Redemption Account have been met to date and there has been accumulated as a reserve in said Bond and Interest Redemption Account an amount equal to the respective sums required therein, then any excess Net Earnings of the waterworks available shall be placed in a Waterworks Tax Account (the "Waterworks Tax

Account") to the extent necessary to provide for the payment of assessed taxes or payments in lieu of taxes.

(c) Special Utility Account. In the event that all required payments into the Bond and Interest Redemption Account and the Waterworks Tax Account (and any required payments of interest and principal on general obligation bonds or the creation of reserves, therefore, which may be hereafter issued pursuant to the Water Act) have been met to date and there has been accumulated as a reserve in said Bond and Interest Redemption Account an amount equal to the respective sums required therein, then any excess Net Earnings of the waterworks available shall be placed in a Special Utility Account (the "Special Utility Account") to the extent necessary to provide for the payment of the extension, replacement in whole or in part, repair and operation and maintenance of the waterworks.

SECTION 6. All of the funds of said several accounts shall be deposited in lawful depositories of the City and shall be continuously held, secured, or invested, as provided by the laws of Indiana relating to the depositing, securing, holding, or investing of public funds. The funds in said Bond and Interest Redemption Account shall be kept in a separate bank account apart from all other bank accounts of the City. In no event shall any of the Net Earnings of said waterworks be transferred or used for any purpose not contemplated by this Ordinance.

The City covenants that it will not make any investment of moneys in said respective Accounts in any manner or take or fail to take any other action which would result in the bonds constituting arbitrage bonds within the meaning of Section 103 of the Internal Revenue Code of 1986 (the "Code") or the Treasury Regulations or any Revenue Rulings promulgated thereunder, or any applicable successor Section, Regulation, or Ruling, or as determined by any court of competent jurisdiction.

SECTION 7. For the purpose of procuring funds with which to pay the cost of said extensions and additions, and issuance expenses, the City of Fort Wayne shall issue its revenue bonds under and pursuant to the provisions of this Ordinance and said Acts, which bonds shall be payable only out of the special Bond and Interest Redemption Account herein provided for, subject to the prior servicing of the 1967 Bonds, the 1968 Bonds and the 1978 Bonds, in accordance with the respective terms thereof and shall be designated as "Junior Waterworks Revenue Bonds of 1990." Said Junior Waterworks Revenue Bonds of 1990 shall be in a principal amount not exceeding Seven Million Five Hundred Thousand Dollars (\$7,500,000), in the denominations of Five Thousand Dollars (\$5,000.00) each of integral multiples thereof, numbered consecutively from 1 upwards, dated as of the first day of the month in which said bonds are sold, and shall bear interest at a rate or rates not exceeding ten percent (10%) per annum, the exact rate or rates to be determined by bidding, which interest shall be payable semi-annually on January 1 and July 1 in each year, beginning on January 1, 1991. The Common Council hereby authorizes and directs the Mayor and the Controller of the City of Fort Wayne, Indiana, to select an institution or institutions to serve as paying agent under this Ordinance for the bonds (the "Paying Agent"), as registrar for the bonds for the registration, exchange and transfer of the bonds pursuant to this Ordinance (the "Registrar") and as authenticating agent for the bonds. Both principal of and premium, if any, on the bonds shall be payable at the offices of the Paying Agent or Registrar, in lawful money of the United States of America, and said bonds shall mature serially on January 1 in the years and amounts as follows:

| <u>YEAR</u> | <u>AMOUNT</u> | <u>YEAR</u> | <u>AMOUNT</u> | <u>YEAR</u> | <u>AMOUNT</u> |
|-------------|---------------|-------------|---------------|-------------|---------------|
| 1991 | \$215,000 | 1997 | \$265,000 | 2003 | \$410,000 |
| 1992 | 230,000 | 1998 | 285,000 | 2004 | 925,000 |
| 1993 | 245,000 | 1999 | 305,000 | 2005 | 925,000 |
| 1994 | 255,000 | 2000 | 330,000 | 2006 | 925,000 |
| 1995 | 275,000 | 2001 | 355,000 | 2007 | 925,000 |
| 1996 | 250,000 | 2002 | 380,000 | | |

Interest on the bonds shall be payable by check or draft of the Paying Agent, mailed to the registered owners thereof as their names appear on the Registrar's registration books as of the 15th day of the month next preceding any interest payment date. The bonds of this issue maturing on January 1, 1999, and thereafter, shall be redeemable at the option of the City, in whole or in part, in inverse chronological order of maturity and by lot within a maturity, on January 1, 1998, or any interest payment date thereafter, at face value, together with the following premiums (expressed in percentage of face value):

2% if redeemed on January 1, 1998, or thereafter
on or before July 1, 2001;
1% if redeemed on January 1, 2002, or thereafter
on or before July 1, 2005;
0% if redeemed on January 1, 2006, or thereafter
prior to maturity;

plus, in each case, accrued interest to the date fixed for redemption. Notice of such redemption shall be published at least thirty (30) days prior to the date fixed for redemption at least one time in a newspaper or financial journal of general circulation published in the City of Indianapolis, Indiana, and a financial journal of general circulation published in the City of New York, New York, and a like notice shall be sent by mail to the holders of such bonds as are then registered. The notice shall specify the date and place of redemption and the serial numbers of the bonds called for redemption. Interest on the bonds so called for redemption shall cease on the date fixed in said notice, if funds are available at the place of redemption to redeem the bonds when presented.

SECTION 8. Said Bonds shall be executed in the name of the City of Fort Wayne by the manual or facsimile

signature of the Mayor, countersigned by the manual or facsimile signature of the City Controller, and shall be attested manually or by facsimile signature by the Clerk, who shall cause to be affixed, imprinted, or impressed by any means, including facsimile, the seal of the City to each of said bonds. In case any officer whose signature appears on the bonds shall cease to be such officer before the delivery of such bonds, his signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. Said bonds may, where appropriate, bear the mutual or facsimile signatures of validly appointed Deputy Officials.

No bond shall be valid or obligatory for any purpose unless and until a certificate of authentication on such bonds substantially in the form herein set forth shall have been duly executed by the Registrar through its authorized representative. Such executed certificate shall be conclusive evidence that such bond has been authenticated pursuant to the terms hereof.

The bonds issued hereunder shall be fully registered bonds without coupons. The bonds may be transferred, without charge, except for any applicable tax, fee, or other governmental charge, only at the principal office of the Registrar upon surrender thereof, together with an assignment duly executed by the registered holder or his duly authorized attorney in such form as shall be satisfactory to the Registrar. Upon the transfer of any such bond and on request of the Registrar, the City shall cause to be executed in the name of the transferee, and the Registrar shall authenticate and deliver, at the option of the transferee, a new fully registered bond or bonds, of any authorized denomination or denominations, in an aggregate principal amount equal to the unmatured and unredeemed principal amount of such bond or bonds surrendered and bearing interest at the same rate and maturing on the same

date or dates. Neither the City nor the Registrar shall be required to make any such exchange or transfer of any bond (i) during the fifteen (15) days next preceding any date on which such bond may be selected for redemption from among any bonds to be redeemed, or (ii) after such bond has been selected for redemption for a period of thirty (30) days prior to the redemption date.

As to any bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of or on account of the principal of and redemption premium, if any, on any such bond and the interest on such bond shall be made only to or upon the order of the registered holder thereof or his duly authorized attorney in such form as shall be satisfactory to the Paying Agent and neither the City nor the Paying Agent shall be affected by any notice to the contrary, but such registration may be changed as hereinabove provided.

SECTION 9. The form and tenor of said bonds, the Registrar's certificate of authentication to be endorsed thereon, and the form of assignment to be endorsed thereon shall be substantially as follows, to-wit:

UNITED STATES OF AMERICA
CITY OF FORT WAYNE
JUNIOR WATERWORKS REVENUE BONDS OF 1990

State of Indiana

County of Allen

No. _____

| | | | | |
|-------------|-----------------|----------------------|----------------|--------------|
| Interest | | | Authentication | |
| <u>Rate</u> | <u>Maturity</u> | <u>Original Date</u> | <u>Date</u> | <u>CUSIP</u> |

Registered Owner:
Principal Sum: \$

The City of Fort Wayne, a municipal corporation, duly organized and existing under the laws of the State of Indiana (hereinafter sometimes called the "City") hereby promises to pay the Registered Owner stated above, or registered assigns, solely out the special account hereinafter referred to, the Principal Sum stated above on

the Maturity Date stated above, and to pay interest thereon until payment of such Principal Sum, or provision therefor, shall have been made upon redemption or at maturity solely from such special account. This Bond shall bear interest from the interest payment date next preceding the date on which it is authenticated (such date of authentication being the "Authentication Date" stated above) unless (a) it is authenticated after the fifteenth day of the month next preceding the month of the next interest payment date and on or before such interest payment date in which event it shall bear interest from the Original Date. Such interest shall be payable to the Registered Owner or registered assigns appearing on the registration books maintained by the Registrar as of the close of business on the fifteenth day of the calendar month next preceding the applicable interest payment date at the Interest Rate per annum stated above, payable semiannually on January 1 and July 1 in each year commencing on January 1, 1991.

The principal of and redemption premium on this Bond are payable in lawful money of the United States of America at the principal office of _____ (the "Paying Agent" and Registrar"), in _____. The interest on this Bond is payable in lawful money of the United States of America by check or draft of the Paying Agent, mailed one business day prior to the interest payment date to the Registered Owner at his address as it appears on the registration books maintained by the Registrar.

This bond is one of an authorized issue of bonds of the City of Fort Wayne of like date, tenor and effect, except as to numbering, rates of interest and dates of maturity, in the aggregate total amount of Seven Million Five Hundred Thousand Dollars (\$7,500,000), issued for the purpose of providing funds for the construction of extensions and additions to the waterworks system pursuant to an ordinance

passed by the Common Council of said City on _____, 1989, entitled "An Ordinance concerning the construction of extensions and additions of the waterworks system owned and operated by the municipal waterworks of the City of Fort Wayne, authorizing the issuance of revenue bonds to provide for the cost thereof, matters connected therewith, and repealing ordinances in conflict therewith, " (the "Ordinance") and in strict compliance with the provisions of the governing statutes, particularly I.C. 8-1.5, and all Acts amendatory thereof or supplemental thereto.

The principal of and interest on this bond and all other bonds of said issue, together with any bonds hereafter issued ranking on a parity therewith, and the principal of and interest on certain outstanding Junior Waterworks Refunding Revenue Bonds of 1982, now outstanding in the principal amount of _____ Dollars (\$_____) and maturing on January 1, of each year to and including January 1, 2002, and constituting a second charge upon the revenues allocated to said Bond and Interest Redemption Account and certain outstanding Junior Waterworks Revenue Bonds of 1986, now outstanding in the principal amount of _____ Dollars (\$_____) and maturing on January 1, of each year to and including January 1, 2007, and also constituting a second charge upon the revenues allocated to said Bond and Interest Redemption Account which rank on a parity with the Waterworks Refunding Revenue Bonds of 1982, are equally and ratably secured by twenty-nine percent (29%) of the gross income and revenues of said waterworks as the same now exist or may hereafter be improved and extended, which percentage of such income and revenues is to be deposited in a special amount to be known as the "Bond and Interest Redemption Account," which has heretofore been duly created, all subject, however, to the prior payment in

1 accordance with the terms thereof of the interest on and
2 principal of certain Waterworks Revenue Bonds of 1967 now
3 outstanding in the principal amount of _____
4 _____ Dollars (\$_____) and maturing
5 on January 1, of each year to and including January 1, 2000,
6 and constituting a first charge upon the revenues allocated
7 to said Bond and Interest Redemption Account, and further,
8 subject to the prior payment in accordance with the terms
9 thereof of the interest on and principal of certain now
10 outstanding Waterworks Revenue Bonds of 1968, now
11 outstanding in the principal amount of _____
12 _____ Dollars (\$_____) and maturing
13 on January 1, of each year to and including January 1, 2000,
14 and also constituting a first charge upon the revenues
15 allocated to said Bond and Interest Redemption Account which
16 ranks on a parity with the Waterworks Revenue Bonds of 1967,
17 and further, subject to the prior payment in accordance with
18 the terms thereof of the interest on and principal of
19 certain now outstanding Waterworks Revenue Bonds of 1978,
20 now outstanding in the principal amount of _____
21 _____ Dollars (\$_____) and maturing on January 1, of each year to and including
22 January 1, 2003, and also constituting a first charge upon
23 the revenues allocated to said Bond and Interest Redemption
24 Account which ranks on a parity with the Waterworks Revenue
25 Bonds of 1967 and the Waterworks Revenue Bonds of 1968. At
26 such time as the Waterworks Revenue Bonds of 1967, the
27 Waterworks Revenue Bonds of 1968, the Waterworks Revenue
28 Bonds of 1978 and the Junior Waterworks Refunding Revenue
29 Bonds of 1982 are no longer outstanding, the principal of
30 and interest on the 1986 Bonds and the principal of and
31 interest on this bond and all other bonds of said issue,
32 together with any bonds hereafter issued ranking on a parity
therewith, are equally and ratably secured by the earnings
of said waterworks system remaining after providing for the

1 payment for operation and maintenance expenses of said
2 waterworks as the same now exists or may hereafter be
3 improved and extended which net earnings are to be deposited
4 in a special account to be known as the "Bond and Interest
5 Redemption Account" heretofore duly created. The City shall
6 not be obligated to pay said bonds or the interest thereof,
7 except from said special account, and neither this bond nor
8 the issue of which it is a part shall in any respect
9 constitute a corporate indebtedness of the City within the
10 provisions and limitations of the Constitution of the State
11 of Indiana.

12 REFERENCE IS MADE TO THE FURTHER PROVISIONS OF
13 THIS BOND SET FORTH ON THE REVERSE HEREOF WHICH SHALL FOR
14 ALL PURPOSES HAVE THE SAME EFFECT AS IF DULY SET FORTH
HEREIN.

(Reverse of Bond)

15 This Bond is transferable by the Registered Owner
16 hereof in person or by his attorney duly authorized in
17 writing at the principal office of the Registrar but only in
18 the manner, subject to the limitations and upon payment of
19 the charges provided in the Ordinance and upon surrender and
20 cancellation of this Bond. Upon such transfer a new
21 registered Bond or Bonds without coupons of the same
22 maturity and in authorized denomination or denominations for
23 the same aggregate principal amount will be issued to the
24 transferee in exchange herefor.

25 The City and the Registrar may deem and treat the
26 Registered Owner hereof as the absolute owner hereof for the
27 purpose of receiving payment of or on account of principal
28 hereof and premium, if any, hereon and interest due hereon
29 and for all other purposes and neither the City nor the
30 Registrar shall be affected by any notice to the contrary.
31 The Bonds are issuable as fully registered Bonds in
32 denominations of \$5,000 or integral multiples thereof. The
Bonds may not be registered to bearer. Subject to the
limitations and upon payment of the charges provided in the
Ordinance, registered Bonds may be exchanged for a like

1 aggregate principal amount of registered Bonds of the same
2 maturity of authorized denominations.

3 The bonds of this issue maturing on January 1, 1999,
4 and thereafter, are redeemable at the option of the City, in
5 whole or in part, in inverse chronological order of maturity
6 and by lot within a maturity, on January 1, 1998, or any
7 interest payment date thereafter, at face value, together
8 with the following premiums:

9 2% if redeemed on January 1, 1998, or thereafter
10 on or before July 1, 2001
11 1% if redeemed on January 1, 2002, or thereafter
12 on or before July 1, 2005;
13 0% if redeemed on January 1, 2006, or thereafter
14 prior to maturity;

15 plus, in each case, accrued interest to the date fixed for
16 redemption; provided notice of such redemption shall be
17 given at least thirty (30) days prior to the date fixed
18 therefor by one publication in a newspaper or financial
19 journal of general circulation published in the City of
20 Indianapolis, Indiana, and a financial journal of general
21 circulation published in the City of New York, New York, and
22 a like notice be sent by mail to the holders of such bonds
23 as are then registered. Interest on the bonds so called for
24 redemption shall cease on the redemption date fixed in said
25 notice, if sufficient funds are available at the place of
26 redemption to redeem the bonds when presented in accordance
27 with the terms thereof. The bonds so redeemed prior to
28 maturity shall be surrendered for cancellation.

29 The City covenants that it will, to the fullest extent
30 permitted by law, fix, maintain, and collect an aggregate of
31 rates and charges for the services rendered by said
32 waterworks which will be sufficient to pay all costs of
operation and maintenance of said waterworks to create and
maintain a fund for the payment of all bonds which by their
terms are payable from the revenues and net earnings of the
waterworks, to create and maintain a fund for the payment of
assessed taxes or payments in lieu of taxes, and to create
and maintain a fund for the payment of the extension,

1 replacement in whole or part, repair, and operation and
2 maintenance of the waterworks and that it will in all other
3 respects faithfully comply with all of the provisions of the
4 governing statutes pursuant to which this bond is issued.
5 In the event the City shall make any default in the payment
6 of the principal of or interest on this bond, the holder
7 hereof shall have all of the rights and remedies provided by
8 the governing statutes, including the right to compel the
9 collection of sufficient rates and charges to provide for
10 the payment of this bond and the interest hereon. Provided,
11 however, nothing herein shall be construed as requiring the
12 expenditure of any funds of the City derived from any
13 sources other than the proceeds of the issue of which this
14 Bond is a part and the revenues and net earnings derived
15 from the operation of said waterworks system and this Bond
16 shall not in any respect constitute a general obligation of
17 the City in its corporate capacity.

18 (Front of Bond)

19 It is hereby certified and recited that all acts,
20 conditions and things required to be done precedent to and
21 in the execution, issuance, authentication, and delivery of
22 this bond have been done and performed in regular and due
23 form as provided by law. This bond shall not be valid
24 obligation until authenticated by the Registrar or its
25 successor in interest by execution of the Registrar's
26 certificate endorsed hereon.

27 IN WITNESS WHEREOF, the City of Fort Wayne, in Allen
28 County, State of Indiana, has caused this bond to be
29 executed in its corporate name by the manual or facsimile
30 signature of the duly elected, qualified, and acting Mayor,
31 countersigned by the manual or facsimile signature of its
32 duly appointed, qualified and acting City Controller, its
corporate seal to be hereunto affixed, imprinted, or
impressed by any means and attested manually or by facsimile
by its duly elected, qualified, and acting Clerk.

CITY OF FORT WAYNE

BY: _____

Mayor

ATTEST:

Countersigned: _____

City Clerk

City Controller

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the bonds described in the within mentioned Ordinance.

as Registrar

BY: _____

Authorized Representative

The following abbreviations, when used in the inscription of the face of the within bond, shall be construed as though they were written out in full according to applicable laws or regulations.

| | |
|----------|--|
| TEN COM. | as tenants in common |
| TEN ENT. | as tenants by the entireties |
| JT TEN. | as joint tenants with right of survivorship and not as tenants in common |

UNIF GIFT MIN ACT. _____ Custodian _____
(Cust) (Minor)

under Uniform Gifts to Minors Act

(State)

Additional abbreviations may also be used though not in list above.

ASSIGNMENT

For value received, the undersigned hereby sells and transfers unto _____.

PLEASE INSERT SOCIAL SECURITY OR
OTHER IDENTIFYING NUMBER OF TRANSFEREE

(Please Print or Typewrite Name and
Address of Transferee)

the within bond, and hereby authorizes the transfer of this bond on the registration books of the Registrar.

DATE: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a registered broker-dealer or a commercial bank or trust company.

Registered Owner
(BOND: The signature above must correspond with the name of the Registered Owner as it appears on the front of this bond in every particular without alteration or enlargement or any change whatsoever).

SECTION 10. The City Controller is hereby authorized and directed to have said bonds prepared, and the Mayor, City Controller and Clerk are hereby authorized and directed to execute said bonds in the form and manner hereinbefore provided. The City Controller shall cause to be published a notice of sale twice, at least one week apart, with the first publication being at least fifteen days prior to the sale and the second publication being at least three days prior to the sale in accordance with I.C. 5-1-11 and I.C. 5-3-1. The notice shall be published in the News-Sentinel and in the Journal Gazette, the only newspapers of general circulation published in Fort Wayne and may be published one time in the Indianapolis Commercial published in the City of Indianapolis, Indiana. A summary notice may be published in the Bond Buyer published in the City of New York, New York. Said notice shall provide, among other things, that each bid shall be accompanied by a certified or cashier's check in the amount of Seventy Five Thousand Dollars (\$75,000) to guarantee performance on the part of the bidder, and that in the event the successful bidder shall fail or refuse to accept delivery of the bonds and pay for the same as soon as the bonds are ready for delivery, or at the time fixed in the notice of sale, then said check and the proceeds thereof shall be the property of the City and shall be considered as its liquidated damages on account of such default. The bond sale notice shall state the time and place of sale, the total amount of bonds, the maximum rate of interest thereon, the maturities thereof, the purpose for which the bonds are being issued,

1 the terms and conditions on which bids will be received and
 2 the sale made, and shall set out such other information as
 3 the City Controller, acting on the advice of the City
 4 Attorney and bond counsel, shall deem necessary and any
 5 summary notice may contain any information deemed so
 6 advisable.

7 All bids for said bonds shall be sealed and shall
 8 be presented to the City Controller at his office. Bidders
 9 shall be required to name the rate of interest which the
 10 bonds are to bear, not exceeding the maximum rate
 11 hereinbefore fixed. Such interest rate shall be in
 12 multiples of one-eighth (1/8) or one-tenth (1/10) of one
 13 percent (1%). The City Controller shall award the bonds to
 14 the highest qualified bidder. The highest bidder shall be
 15 the one who offers the lowest interest cost to the City, to
 16 be determined by computing the total interest on all of the
 17 bonds to their maturities and deducting therefrom the
 18 premium bid, if any. No bid for less than the par value of
 19 said bonds, including accrued interest to the date of
 20 delivery, shall be considered. The City Controller shall
 21 have the right to reject any and all bids, and in the event
 22 no satisfactory bids are received, the City Controller shall
 23 be authorized to continue the sale from day to day for a
 24 period of thirty (30) days without readvertisement;
 25 provided, however, that if said sale be continued no bid
 26 shall be accepted which is lower than the highest bid
 27 received at the time fixed for such sale in the bond sale
 28 notice.

29 Prior to the delivery of said bonds to the purchaser
 30 thereof, the City controller shall obtain a legal opinion as
 31 to the validity of the bonds from Barnes & Thornburg, acting
 32 as bond counsel for the City and shall furnish such opinion
 to the purchaser of the bonds. The fee of such bond counsel
 shall be considered as part of the cost of such issue and
 shall be paid out of the proceeds of said bonds.

1 The Common Council authorizes the insurance of the
2 bonds with a municipal bond insurance company if the City
3 Controller, acting on the advice of the City's financial
4 consultant, finds such insurance advisable, in the best
5 interest of the City and necessary, convenient or desirable
6 to make the bonds issued hereunder more marketable.

7 The City covenants that it will not invest the proceeds
8 of said bonds, or any moneys treated as proceeds by the
9 Internal Revenue Service, in any manner, or take or fail to
10 take any other action, which would result in said bonds
11 constituting "arbitrage bonds" within the meaning of Section
12 103 of the Code, or the Treasury Regulations or any Revenue
13 Rulings promulgated thereunder, or any applicable successor
14 Section, Regulation, or Ruling, or as determined by any
15 court of competent jurisdiction.

16 SECTION 11. In the event it shall be hereafter
17 determined that it is not necessary to issue all of the
18 bonds authorized by this Ordinance, or the Indiana Utility
19 Regulatory Commission of Indiana shall not approve the
20 issuance of said total amount of bonds, the City Controller
21 shall be authorized to sell and deliver a lesser amount of
22 bonds than herein authorized, in which case the bonds not
23 sold or delivered shall be of the last maturity or
24 maturities.

25 The bonds herein authorized, when fully paid for and
26 delivered to the purchaser, shall be the binding and special
27 revenue obligations of the City, payable out of the Net
28 Earnings of the waterworks system of said City according to
29 their tenor and effect, and the proceeds derived from the
30 sale of the bonds shall be and are hereby set aside for the
31 purpose of paying the cost of construction and installation
32 of the aforesaid extensions and additions by said municipal
waterworks and the expenses necessarily incurred in
connection therewith, including the expenses incurred in
connection with the issuance and sale of the bonds. The

proper officers of the City are hereby directed to draw all proper and necessary warrants, and to do all acts and things which may be necessary to carry out the provisions of this Ordinance.

SECTION 12. Any accrued interest and any premium received at the time of the delivery of the bonds shall be deposited in the Bond and Interest Redemption Account heretofore duly created. The remaining proceeds from the sale of the bonds shall be used immediately to pay the costs of issuance incidental to the bond issue. All proceeds remaining after the aforementioned deposit in the Bond and Interest Redemption Account and payments with respect to the incidental costs of issuance shall, upon receipt, be deposited in a bank or banks which are legally designated and qualified depositories for the funds of the City in a special account or accounts to be designated as "City of Fort Wayne, 1990, Waterworks Construction Account." The funds in each of such special accounts shall be deposited, secured, and held or invested, as provided by the laws of the State of Indiana relating to the depositing, securing, and holding or investing of public funds. The funds in such special account or accounts shall be expended only for the purpose of paying the cost of the extensions and additions to said waterworks as herein authorized, the incidental expenses incurred in connection therewith, including legal fees, and for the payment of interest accruing on the bonds during the period of construction, if required for that purpose. Any balance or balances remaining unexpended in the Construction Fund after the completion of the work which are not required to meet unpaid obligations incurred in connection with the construction of the work shall be deposited in the Bond and Interest Redemption Account within sixty (60) days after completion of the project.

If required by bond counsel as a condition of its approving opinion to be delivered upon the original issuance

1 and delivery of the bonds as to the exemption of interest on
2 the bonds from Federal income taxation, there shall be
3 established a Rebate Fund (the "Rebate Fund").
4 Notwithstanding anything in the Ordinance to the contrary,
5 the City shall transfer to the Rebate Fund from the other
6 accounts established under the Ordinance that amounts
7 required to be transferred (when such amounts are so
8 required to be transferred) in order to preserve the
9 exemption of interest on the bonds from Federal income
10 taxation under the Code. The City shall make payments from
11 the Rebate Fund of amounts required to be deposited therein
12 to the United States of America in the amounts and at the
13 time required by the Code. The City covenants for the
14 benefit of the holders of the bonds that, if the Rebate Fund
15 is established, it will comply with the requirements of the
16 code relating thereto. The City shall not be required to
17 continue to comply with these requirements relating to the
18 Rebate Fund in the event that the City obtains an opinion of
19 nationally recognized bond counsel that (i) such
20 compliance is no longer required in order to maintain the
21 Federal income tax exemption of interest on the bonds or
22 (ii) compliance with some other requirement will comply
23 with the provisions of the Code in respect of arbitrage
24 rebate. A supplemental ordinance may, but need not be,
25 adopted to reflect the elimination or substitution of any
26 such requirement.

27 SECTION 13. The City shall keep proper books of
28 records and accounts, separate from all of its other records
29 and
30
31
32

1 accounts, in which complete and correct entries shall be
2 made showing all earnings collected from said waterworks and
3 deposited in the special accounts heretofore established and
4 all disbursements made therefrom and all transactions
5 relating to said waterworks. There shall be prepared and
6 furnished to the original purchaser of the bonds, and, upon
7 written request, to any holder of the bonds, not more than
8 sixty (60) days after the close of each annual fiscal
9 period, complete operating and income statements and balance
10 sheets of the waterworks, in reasonable detail, covering
11 such annual fiscal period together with a statement of the
12 balances as of the close of such fiscal year in each of the
13 accounts hereinbefore referred to in this Ordinance, which
14 statements shall be prepared by an independent certified
15 public accountant. Said annual statements shall also
16 include a statement as to the number of customers of the
17 waterworks at the close of said fiscal year and the number
18 at the end of the preceding year, and comments of said
19 accountant relative to the manner in which the City has
20 carried out the requirements of this Ordinance and any other
21 ordinances authorizing then outstanding bonds. The fees or
22 charges of such accountant shall be deemed to be a cost of
23 operation and maintenance of the waterworks. Copies of all
24 such statements and reports shall at all times be kept on
25 file in the office of the City Controller. Any holder of
26 the bonds or representative of any holder duly authorized by
27 written instrument shall have the right at all reasonable
28 times to inspect the waterworks and the records, accounts
29 and data of the City relating thereto.

30 SECTION 14. The City shall, to the fullest extent
31 permitted by law, establish, maintain and collect reasonable
32 and just rates and charges for the services and facilities
afforded by said waterworks which will provide earnings at
least sufficient to pay the reasonable and proper cost of
the maintenance and operation of the waterworks, to pay the

principal of, the interest on and reserves for all bonds payable from the revenues or Net Earnings of the waterworks as the same become due and provide a surplus or margin of ten percent (10%) of the principal and interest due each year, which shall be cumulative, to pay assessed taxes or payments in lieu of the taxes, and to pay for the extension, replacement in whole or in part, repair, and operation and maintenance of the waterworks as necessary. So long as any of the bonds herein authorized are outstanding, none of the facilities and services afforded by said waterworks shall be furnished without a reasonable and just charge being made therefor. The reasonable value of any facility or service rendered to the City, or to any department, agency or instrumentality thereof, including the use of water for hydrants for fire protection or for any other purpose, shall be charged against the City and shall be paid for as the charges accrue, and the payments so received shall be deemed to be earnings derived from the operation of the waterworks and shall be used and accounted for in the same manner as other earnings derived from the operation of the waterworks.

SECTION 15. If, prior to the maturity of the bonds issued hereunder, (i) sufficient moneys, or (ii) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, the principal of and the interest on which when due will provide sufficient moneys, or (iii) time certificates of deposit fully secured as to both principal and interest by obligations of the kind described in (ii) above of a bank or banks the principal of and interest on which when due will provide sufficient moneys, shall be held in trust for such purpose, to pay the whole amount of the principal and the interest due and payable at maturity upon all of the bonds then outstanding; then and in that case the bonds issued hereunder shall no longer be

1 deemed outstanding or entitled to the pledge of the Net
2 Earnings of the City's waterworks established herein.

3 SECTION 16. The City reserves the right to
4 authorize and issue additional bonds, payable out of the
5 revenues of the waterworks, of equal priority with the bonds
6 authorized by this Ordinance for the purpose of financing
7 the cost of future additions, extensions and improvements to
8 the waterworks, subject to the following conditions:

9 (a) The interest on and principal of all bonds payable
10 from the revenues of the waterworks shall have been paid to
11 date in accordance with the terms thereof, and all required
12 payments into the Bond and Interest Redemption Account have
13 been made in accordance with the provisions of this
14 Ordinance.

15 (b) In the event the 1967 Bonds, the 1968 Bonds, the
16 1978 Bonds, or the 1982 Bonds are outstanding at the time
17 such additional bonds are issued,

18 (i) The amount of gross revenues of the
19 waterworks allocated to and deposited in the Bond and
20 Interest Redemption Account in the calendar year immediately
21 preceding the issuance of any such additional parity bonds
22 shall be not less than one hundred twenty-five percent (125%)
23 of the maximum annual interest and principal requirements of
24 the then outstanding bonds and the additional parity bonds
25 proposed to be issued; or

26 (ii) Prior to the issuance of said parity bonds,
27 the proportion of the gross revenues allocated to said Bond
28 and Interest Redemption Account shall be increased
29 sufficiently so that said increased proportion applied to
30 the previous calendar year's gross revenues would have
31 produced revenues in said Bond and Interest Redemption
32 Account for said year equal to not less than one hundred
twenty-five percent (125%) of the maximum annual interest
and principal requirements of the then outstanding bonds and
the additional parity bonds proposed to be issued; or

1 (iii) Prior to the issuance of said parity bonds,
2 the water rates and charges shall be increased sufficiently
3 and the proportion of gross revenues allocated to said Bond
4 and Interest Redemption Account increased sufficiently so
5 that said increased water rates and charges applied to the
6 previous calendar year's operations would have produced
7 gross revenues in an amount so that the proportion allocated
8 to said Bond and Interest Redemption Account for said year
9 would have equaled not less than one hundred twenty-five
10 percent (125%) of the maximum annual interest and principal
11 requirements of the then outstanding bonds and the
12 additional parity bonds proposed to be issued.

13 (c) In the event the 1967 Bonds, the 1968 Bonds, the
14 1978 Bonds and the 1982 Bonds are not outstanding at the
15 time such additional bonds are issued, then either:

16 (i) The amount of Net Earnings of the waterworks
17 deposited in the Bond and Interest Redemption Account in the
18 calendar year immediately preceding the issuance of any such
19 additional parity bond shall be not less than one hundred
20 twenty percent (120%) of the maximum annual interest and
21 principal requirements of the then outstanding bonds and the
22 additional parity bonds proposed to be issued; or

23 (ii) Prior to the issuance of said parity bonds,
24 the water rates and charges shall be increased sufficiently
25 so that said increased water rates and charges when applied
26 to the previous calendar year's operations would have
27 produced Net Earnings in an amount not less than one hundred
28 twenty percent (120%) of the maximum annual interest and
29 principal requirements of the then outstanding bonds and the
30 additional parity bonds proposed to be issued.

31 For the purposes of this subsection (b) and (c) above,
32

1 (d) To the extent required by law, the issuance of the
2 proposed additional parity bonds and any necessary increase
3 in water rates and charges shall have been approved by the
4 Indiana Utility Regulatory Commission of Indiana, and said
5 Commission shall have certified that the Net Earnings of the
6 waterworks, after providing for operation and maintenance,
7 will be sufficient to pay the principal and interest of all
8 bonds payable from the Net Earnings of the waterworks,
9 including the additional parity bonds proposed to be issued.

10 (e) The principal on such additional parity bonds
11 shall be payable on January 1 in the years in which
12 principal is payable, and the interest on said bonds shall
13 be payable semi-annually on January 1 and July 1 in the
14 years in which said interest is payable.

15 SECTION 17. For the purpose of further
16 safeguarding the interests of the holders of the bonds, it
17 is specifically provided as follows:

18 (a) All construction contracts shall be let to
19 responsible contractors who shall be required to furnish
20 construction bonds in an amount equal to one hundred percent
21 (100%) of the amount of such contracts to insure the
22 completion of such contracts in accordance with their terms
23 and such contractor shall be required to carry such
24 employer's liability and public liability insurance as are
25 required under the laws of the State of Indiana in the case
26 of public contracts.

27 (b) The extensions and additions shall be contracted
28 for and constructed to the approval of the City's Engineer
29 or such other consulting engineers as may be hereafter
30 employed by the City. All estimates for work done and
31 material furnished shall first be checked by the City's
32 Engineer or such consulting engineers before being approved
by the City.

 (c) The City shall, at all times, maintain said

1 waterworks in good condition and operate the same in an
2 efficient manner and at a reasonable cost.

3 (d) So long as any of the bonds herein authorized are
4 outstanding, the City shall maintain insurance on the
5 insurable parts of the waterworks of a kind and in an amount
6 such as is usually carried by private companies engaged in a
7 similar type of business. All insurance shall be place with
8 responsible insurance companies qualified to do business in
9 the State of Indiana, and any insurance proceeds collected
10 shall be used in replacing the property destroyed or
11 damaged. As an alternative to maintaining such insurance,
12 the City may maintain a self insurance program with
13 catastrophic or similar coverage so long as such program
14 meets the requirements of applicable laws and is maintained
15 in a manner consistent with programs maintained by similarly
16 situated municipalities.

17 (e) So long as any of the bonds herein authorized are
18 outstanding, the City shall not mortgage, pledge or
19 otherwise encumber its waterworks or any part thereof, and
20 shall not sell, lease or otherwise dispose of any portion
21 thereof except such equipment which may become worn out or
22 obsolete, and shall be replaced; nor, except as provided in
23 Section 16. hereof, shall the City execute or issue any
24 additional notes, bonds or other obligations pledging any
25 portion of the revenues of said waterworks unless the same
26 be made subordinate and junior in all respects to the bonds
27 herein authorized.

28 (f) The provisions of this Ordinance shall be
29 construed to create a trust in the proceeds derived from the
30 sale of the bonds herein authorized, for the uses and
31 purposes herein set forth, and so long as any of said bonds
32 are outstanding the provisions of this Ordinance shall also
be construed to create a trust in the revenues or Net
Earnings of the waterworks herein directed to be set apart
and paid into the bond and Interest Redemption Account for

the uses and purposes of said account as in this Ordinance set forth.

(g) The provisions of this Ordinance shall constitute a contract by and between the City of Fort Wayne and the holders of the bonds herein authorized, all of the terms of which shall be enforceable in law or in equity, and after the issuance of the bonds this Ordinance shall not be repealed or amended in any respect which will adversely affect the rights and interests of the holders of said bonds, nor shall the Common Council of the City adopt any law, ordinance or resolution in any way adversely affecting the rights of such holders so long as any of the bonds or the interest thereon remain unpaid. The holders of the bonds shall have all of the rights, remedies and privileges, either expressly set forth in the provisions of I.C. 8-1.5 and all acts amendatory thereof and supplemental thereto, or implied therein, including the right to compel the collection of sufficient rates and charges to provide for the payment of the bonds issued hereunder and the interest thereon. Provided, however, none of the provisions of this Ordinance shall be construed as requiring the expenditure of any funds of the City derived from any sources other than the proceeds of said bonds and the revenues or Net Earnings derived from the operation of said waterworks system and said bonds shall not in any respect constitute general obligations of the City in its corporate capacity.

(h) The City covenants that it will not use the proceeds of the bonds, or any earnings thereon, in any manner, and will not take or fail to take any action, which would adversely affect the exemption from Federal or State income taxation of interest on any of the bonds under the Code or applicable state laws.

SECTION 18. Subject to the terms and provisions contained in this section, and not otherwise, the holders of not less than sixty-six and two-thirds percent (66-2/3%) in

1 aggregate principal amount of the bonds issued pursuant to
2 this Ordinance and then outstanding shall have the right,
3 from time to time, anything contained in this Ordinance to
4 the contrary notwithstanding, to consent to and approve the
5 adoption by the City of such ordinance or ordinances
6 supplemental hereto as shall be deemed necessary or
7 desirable by the City for the purpose of modifying,
8 altering, amending, adding to or rescinding in any
9 particular any of the terms or provisions contained in this
10 Ordinance, or in any supplemental ordinance; provided,
11 however, that nothing herein contained shall permit or be
12 construed as permitting unless otherwise consented to by the
13 holders of all of the then outstanding bonds authorized by
14 this Ordinance:

15 (a) An extension of the maturity of the principal of
16 or interest of any bond issued pursuant to this Ordinance;
17 or

18 (b) A reduction in the principal amount of any bond or
19 the rate of interest thereon; or


20 (c) The creation of a lien upon or a pledge of the
21 revenues of the waterworks ranking prior to the pledge
22 thereof created by this Ordinance except as provided in
23 Section 16 hereof; or

24 (d) A preference or priority of any bond or bonds
25 issued pursuant to this Ordinance over any other bond or
26 bonds issued pursuant to the provisions of this Ordinance;
27 or

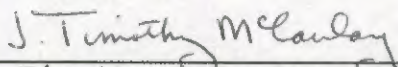
28 (e) A reduction in the aggregate principal amount of
29 the bonds required for consent to such supplemental
30 ordinance.

31 The holders of not less than sixty-six and two-thirds
32 percent (66-2/3%) in aggregate principal amount of the bonds
outstanding at the time of adoption of such supplemental
ordinance shall have consented to and approved the adoption
thereof by written instrument to be maintained on file in

SECTION 20. That this Ordinance shall be in full force and effect from and after its passage, and any and all necessary approval by the Mayor.


Councilmember

APPROVED AS TO FORM
AND LEGALITY


J. Timothy McCaulay, City Attorney

BILL NO. S-89-11-34 (As amended)

REPORT OF THE COMMITTEE ON CITY UTILITIES

THOMAS C. HENRY, CHAIRMAN
MARK E. GIAQUINTA, VICE CHAIRMAN
LONG, BURNS, TALARICO

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) concerning the
construction of extensions and additions to the waterworks system
owner and operated by said City of Fort Wayne, authorizing the
issuance of revenue bonds to provide for the cost thereof, matters
connected therewith, and repealing ordinances in conflict
therewith

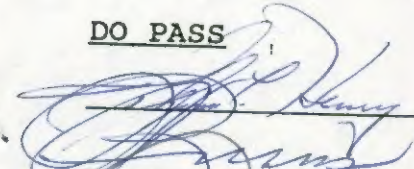
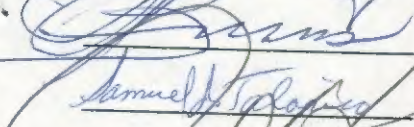
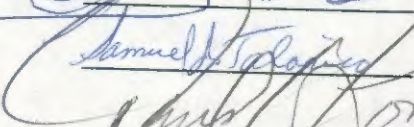
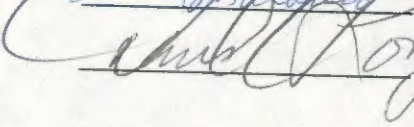
HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

| | | | |
|---|--|--|--|
|  | | | |
|  | | | |
|  | | | |
|  | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

DATED: 12-12-89

Sandra E. Kennedy
City Clerk